



भारत का राजपत्र The Gazette of India

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No. 37]

NEW DELHI, SATURDAY, SEPTEMBER, 15, 2001/BHADRA 24, 1923

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-Section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय

सारणी

नई दिल्ली, 27 अगस्त, 2001

को आ 2345—केन्द्रीय सरकार, सार्वजनिक परिसर (अनाधिकृत अधिकारियों की बेदेखनी) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और अधिसूचना सं एल-11011/1/91-एनएमजी तारीख 19-11-1991 को अधिनात करत हुए, निम्न सारणी के स्तम्भ (1) में उल्लिखित अधिकारियों को, जो सरकार के राजपत्रित अधिकारियों के रैंक के समकक्ष हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारियों के रूप में नियुक्त करती है, जो उक्त सारणी के स्तम्भ (2) में तद-स्थानी पृविष्टियों में सार्वजनिक परिसरों के संबंध में अपनी-अपनी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग करेंगे और कर्तव्यों का निष्पादन करेंगे।

अधिकारी का पदनाम

सार्वजनिक परिसरों के प्रवेश और अधिकारिता की स्थानीय सीमाएं

1	2
1 ग्रुप कमाण्डर, 52 स्पेशल एक्शन ग्रुप समालखा	राष्ट्रीय सुरक्षा गार्ड के समालखा स्थित परिसर।
2 ग्रुप कमाण्डर इलेक्ट्रॉनिक सर्वोट ग्रुप पानम	राष्ट्रीय सुरक्षा गार्ड के पालम स्थित परिसर।
3 ग्रुप कमाण्डर (प्रशासन) राष्ट्रीय सुरक्षा गार्ड निदेशालय	राष्ट्रीय सुरक्षा गार्ड के समालखा और पालम के अलावा दिल्ली स्थित परिसर।

1

2

- 4 स्क्वाड्रन कमाण्डर राष्ट्रीय सुरक्षा गार्ड के मानेसर
(कनस्ट्रक्शन स्क्वाड्रन) जिला गुडगांव स्थित परिसर।
स्टेशन हेडक्वार्टर मानेसर

[फा.सं एन-3005/6/2000/एन एस जी/पर्स-III]

भट्टाचार्य, अवर सचिव (पर्स-III)

MINISTRY OF HOME AFFAIRS

New Delhi, the 27th August, 2001

S.O. 2345.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification No. L-11011/1/91-NSG dated 19-11-1991, the Central Government hereby appoint the officers mentioned in column (1) of the table below, being officers equivalent to the rank of Gazetted Officers of Government, to be estate officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act, within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entries in column (2) of the said table.

TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
1 Group Commander 52, Special Action Group, Samalkha	National Security Guard Premises at Samalkha
2 Group Commander Electronic Support Group, Palam	National Security Guard premises at Palam
3 Group Commander (Administration) Directorate, National Security Guard	National Security Guard premises at Delhi except Samalkha and Palam
4 Squadron Commander (Construction Squadron) premises at Manesar Station Headquarter, District, Gurgaon Manesar	National Security Guard

[F No. L-3005/6/2000/NSG/Pers-III]

A. BHATTACHARYYA, Under Secretary (Pers-III)

कार्मिक, लोक निकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 30 अगस्त, 2001

का.आ. 2346.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम स. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इलाहाबाद उच्च न्यायालय की लखनऊ न्यायपीठ में केन्द्रीय अन्वेषण व्यरो के रिटर्नर काउंसेल श्री विरेश्वर नाथ, अधिवक्ता, लखनऊ को दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित मामलो से उद्भूत अभियोजन, अपीलें/पुनरीक्षणों अथवा अन्य कार्यवाहियों का संचालन करने के लिये इलाहाबाद उच्च न्यायालय की लखनऊ न्यायपीठ में विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[मं 225/28/2000—ए वी डी -II]

हरि सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC

GRIEVANCES AND PENSION

(Department of Personnel & Training)

New Delhi, the 30th August, 2001

S.O. 2246.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Sh. Bireshwar Nath, Advocate, Lucknow a Retainer Counsel of the Central Bureau of Investigation in the Lucknow Bench of Allahabad High Court as Special Public Prosecutor for conducting prosecution, appeals, revisions or other proceedings arising out of the cases investigated by the Delhi Special Police Establishment in the Lucknow Bench of Allahabad High Court.

[No. 225/28/2000-AVD.II]

HARI SINGH, Under Secy.

विन मन्त्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 23 अगस्त, 2001

स्टाम्प

का.आ. 2347.— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पंजाब नेशनल बैंक नई दिल्ली को मात्र छह करोड़ रुपये का समेकित स्टाम्प शुल्क भुगतान करने की अनुमति प्रदान करती है जो उक्त बैंक द्वारा जारी किये जाने वाले मात्र तीन सौ करोड़ रुपये के समय

मूल्य के दस-दस लाख रुपये प्रत्येक के 3000001 से 3003000 तक विशिष्ट संख्या वाले प्रोमिसरी नोटों के स्वरूप के असुरक्षित विमोच्य बंधपत्रों पर स्टाम्प शुल्क के कारण प्रभाव है।

[सं. 37/2001-स्टाम्प-फा.सं. 33/48/2001-बि.क.]

भार. जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 23rd August, 2001

STAMPS

S.O. 2347.—In exercise of the powers conferred by clause (b) of sub-section (1) of Section 9 of the Indian Stamps Act, 1899 (2 of 1899), the Central Government hereby permits Punjab National Bank, New Delhi to pay consolidated stamp duty of rupees six crore only on Unsecured Redeemable Bonds in the nature of Promissory Notes bearing distinctive numbers from 3000001 to 3003000 of rupees ten lakh each aggregating to rupees three hundred crore only, to be issued by the said Bank.

[No. 37/2001-STAMPS-F. No. 33/48/2001-ST]

R. G. CHHABRA, Under Secy.

नई दिल्ली, 4 सितम्बर, 2001

का.भा. 2348.—केन्द्रीय सरकार सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, नीचे सारणी में वर्णित अधिकारी को, जो उस सरकार का राजपत्रित अधिकारी है, उक्त अधिनियम के प्रयोजनों के लिये सम्पदा अधिकारी नियुक्त करती है और उक्त अधिकारी उक्त सारणी के स्तंभ 3 की तत्स्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों के प्रयोगों की वास्त, अपनी अधिकारिता की सीमाओं के भीतर उक्त अधिनियम के द्वारा या उसके अधीन सम्पदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करेगा और उस पर अधिरोपित कर्तव्यों का पालन करेगा।

सारणी

क्रम संख्या अधिकारी का पदनाम	सरकारी स्थानों के प्रयोग और अधिकारिता की स्वाधीन सीमाएं	
1	2	3
1. केन्द्रीय उत्पाद शुल्क आयुक्त, दिल्ली-1	बंगला सं. बी-21, हिलसाइड रोड, पूसा नई दिल्ली अर्थात् :— निदेशक, केन्द्रीय राजस्व नियंत्रण प्रयोगशाला, नई दिल्ली के पद पर पदधारी के लिये निश्चित प्लैट।	

[फा.सं. 213/7/2001/एडी-VIII (ई सी)]

सुषमा कटारिया, अवर सचिव

New Delhi, the 4th September, 2001

S.O. 2348.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) the Central Government hereby appoints the officer mentioned in the Table below, being gazetted officer of that Government, to be the estate officer for the purposes of the said Act and the said officer shall exercise the powers conferred and perform the duties imposed on estate officer by or under the said Act, within the limits of his jurisdiction in respect of the categories of public premises specified in the corresponding entry in column 3 of the said Table.

TABLE

Sl. No.	Designation of the officer	Categories of the Public premises and local limits of jurisdiction
1	2	3
1.	Commissioner, Central Excise, Delhi-I.	Bungalow Number B-21, Hillside Road, Pusa, New Delhi i.e. the earmarked flat meant for the incumbent in the post of Director, Central Revenues Control Laboratory, New Delhi.

[F. No. 213/7/2001-Ad. VIII (EC)]
SUSHMA KATARIA, Under Secy

आर्थिक कार्य विभाग

(बैंकिंग प्रभाग)

नई दिल्ली, 3 सितम्बर, 2001

का.आ. 2349.— बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2003 तक कुड्डप्पा डिस्ट्रिक्ट को-ऑपरेटिव सेन्ट्रल बैंक लि., कुड्डप्पा, आन्ध्र प्रदेश पर लागू नहीं होंगे।

[फा.स. 1(34)/96-एसी]

एल. सी. टूरा, अवर सचिव

Department of Economic Affairs

(Banking Division)

New Delhi, the 3rd September, 2001

S.O. 2349.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to The Cuddapah District Co-operative Central Bank Ltd., Cuddapah, Andhra Pradesh from the date of publication of this notification in the Official Gazette upto 31 March, 2003.

[F. No 1(34)/96-AC]

L. C. TOORA, Under Secy.

नई दिल्ली, 3 सितम्बर, 2001

का.आ. 2350.— बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित बैंककारी विनियमन अधिनियम, 1949 (जैसा कि सहकारी संस्थाओं पर लागू है) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि बैंककारी विनियमन अधिनियम, 1949 (जैसा कि सहकारी संस्थाओं पर लागू है) की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2002 तक गूटी को-ऑपरेटिव टाऊन बैंक लि., गूटी (आन्ध्र प्रदेश) पर लागू नहीं होंगे।

[फा.सं. 1(18)/2001-एसी]

एल.सी. टूरा, अवर सचिव

New Delhi, the 3rd September, 2001

S.O. 2350.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (AACS) read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government on recommendation of the Reserve

Bank of India, hereby declares that the provisions of Sub-section (1) of Section 11 of the Banking Regulation Act, 1949 (AACS) shall not apply to The Gooty Co-operative Town Bank Ltd., Gooty (Andhra Pradesh) for the period from the date of publication of this notification in the Gazette of India upto 31 March, 2002.

[F. No. 1(18)/2001-AC]

L. C. TOORA, Under Secy.

नई दिल्ली, 3 सितम्बर, 2001

का.आ. 2351.— भारतीय स्टेट बैंक (अनुषंगी बैंक) अधिनियम, 1959 (1959 का 38) की धारा 26 की उपधारा (2क) के साथ पठित धारा 25 की उपधारा (1) के खंड (ग क) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा स्टेट बैंक आफ पटियाला, प्रधान कार्यालय, पटियाला के विशेष सहायक श्री हरिन्दर पाल सिंह को 4 सितम्बर, 2001 से 3 सितम्बर, 2004 तक की तीन वर्ष की अवधि के लिए और उसके पश्चात् उनके उत्तराधिकारी की नियुक्ति होने तक या तीन और वर्ष के लिए, जो भी पहले हो, या उनके स्टेट बैंक आफ पटियाला में एक कर्मकार कर्मचारी रहने तक जो भी पहले हो, उन्हें बैंक आफ पटियाला के निदेशक मंडल में निदेशक के रूप में नियुक्त करती है।

[फा.सं. 15/2/2001-आई.आर.]

जी. आर. सुमन, उप सचिव

New Delhi, the 3rd September, 2001

S. O. 2351.—In pursuance of clause (ca) of Sub-section (1) of Section 25 read with Sub-section (2A) of Section 26 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government hereby appoints Shri Harinder Pal Singh, Special Assistant, State Bank of Patiala, Head Office, Patiala as a director on the Board of Directors of State Bank of Patiala for a period of three years with effect from 4th September, 2001 to 3rd September, 2004 and thereafter until his successor is appointed or three years more whichever ever is earlier, or till he ceases to be a workman employee of State Bank of Patiala, whichever event occurs the earliest.

[F. No. 15/2/2001-IR]

G. R. SUMMAN, Dy. Secy.

नई दिल्ली, 4 सितम्बर, 2001

का.आ. 2252.— भारतीय औद्योगिक विकास बैंक अधिनियम, 1964 (1964 का 18) की धारा 6 की उपधारा (1) के खंड (क) और उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा श्री पी.पी. वोहरा, अध्यक्ष एवं प्रबंध निदेशक, राष्ट्रीय आवास बैंक को उनके कार्यभार ग्रहण करने की तारीख से 30 सितम्बर,

2003 तक की अवधि के लिए या अगले आदेश होने तक, जो भी पहले हो, भारतीय औद्योगिक विकास बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 7/10/2000-बी.ओ.-I]

रमेश चन्द अबर सचिव

New Delhi, the 4th September, 2001

S. O. 2352.—In exercise of powers conferred by clause (a) of sub-section (1) and sub-section (2) of Section 6 of the Industrial Development Bank of India Act, 1964 (18 of 1964), the Central Government, hereby appoints Shri P. P. Vora, presently Chairman and Managing Director, National Housing Bank as Chairman and Managing Director, Industrial Development Bank of India for the period from the date of his taking charge and upto 30th September, 2003 or until further orders, whichever is earlier,

[F. No. 7/10/2000-B.O-I.]

RAMESH CHAND, Under Secy.

नई दिल्ली, 4 सितम्बर, 2001

का.आ. 2353.—विशेष न्यायालय (प्रतिभूति संयवहार संबंधी अपराध विचारण) अधिनियम, 1992 की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्वारा श्री डी. के. त्यागी, आई.एस. (एमटी : 81) वर्तमान निदेशक, आर्थिक कार्य विभाग, बैंकिंग प्रभाग, नई दिल्ली को उनके कार्यभार ग्रहण करने की तारीख से 15-1-2004 तक 18400-500-22400 रुपये के वेतनमान में प्रतिनियुक्ति के आधार पर विशेष न्यायालय (प्रतिभूति संयवहार संबंधी अपराध विचारण) अधिनियम, 1992 के अधीन अभिरक्षक के रूप में नियुक्त करती है।

[सं. एफ. 4/3/94-एस सी एस/सतर्कता]

शेखर अग्रवाल, संयुक्त सचिव

New Delhi, the 4th September, 2001

S. O. 2353.— In exercise of powers conferred by sub-section (1) of section 3 of the Special Court (Trial of Offences) Relating to Transactions in

Securities) Act, 1992, the Central Government hereby appoints Shri D. K. Tyagi, IAS (MT : 81), presently Director, Department of Economics Affairs, Banking Division, New Delhi as Custodian under the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 on deputation basis in the pay scale of Rs. 18400-500-22400 from the date of his taking charge of the post till 15-01-2004.

[No. F. 4/3/94-SCS/VIG.]

SHEKHAR AGARWAL, Jt. Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 30 अगस्त, 2001

का.आ. 2354.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कोसलवास हो. ची. मिन्ह सिटी (वियतनाम) में श्री बिजेन्द्र कुमार सहायक को 30-08-2001 से सहायक कौंसली अधिकारी का कार्य करने के लिये प्राधिकृत करती है।

[सं. टी.-4330/1/2001(आई)]

योगेश नारंग, उप सचिव (कान्सुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 30th August, 2001

S. O. 2354.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri Bijender Kumar, Asst. in the CGI Ho Chi Minh City (Vietnam) to perform the duties of Assistant Consular Officer with effect from 30-08-2001.

[No.-T. 4330/1/2001-(I)]

Y. C. NARANG, Dy. Secy. (Cons.)

नई दिल्ली, 30 अगस्त, 2001

New Delhi, the 30th August, 2001

का.आ. 2355.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का दूतावास कोपेनहेगेन में श्री प्रवीर भट्टाचार्य, सहायक को 30-08-2001 से सहायक कौंसली अधिकारी का कार्य करने के लिये प्राधिकृत करती है।

[सं. टी.-4330/1/2001(II)]

योगेश नारंग, उप सचिव (कान्सुलर)

New Delhi, the 30th August, 2001

S. O. 2355.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri Prabir Bhattacharya, Asst. in the E/I Copenhagen to perform the duties of Assistant Consular Officer with effect from 30-08-2001.

[No. T-4330/1/2001-(II)]

Y. C. NARANG, Dy. Secy. (Cons)

नई दिल्ली, 30 अगस्त, 2001

का.आ. 2356.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कोसलावास इस्तानबुल में श्री विनोद कुमार वर्मा, सहायक को 30-08-2001 से सहायक कौंसली अधिकारी का कार्य करने के लिये प्राधिकृत करती है।

[सं. टी. -4330/1/2001(III)]

योगेश नारंग, उप सचिव (कान्सुलर)।

S. O. 2356.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri Vinod Kumar Verma, Asst. in the CGI Istanbul to perform the duties of Assistant Consular Officer with effect from 30-08-2001.

[No. T-4330/1/2001--(III)]

Y. C. NARANG, Dy. Secy. (Cons)

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 29 अगस्त, 2001

का.आ. 2357.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुये वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 3975, तारीख 20 दिसम्बर, 1965 की संलग्न अनुसूची में विनिर्दिष्ट खनिज तथा अयस्क (ग्रुप-I) का निर्यात से पूर्व निरीक्षण करने के लिये थेरापेयूटिक्स कैमिकल रिसर्च कार्पोरेशन, बीजग जिसका रजिस्ट्रीकृत कार्यालय डोर नं. 26-8-69 सत्यानिलयम, राजा राम मोहन राय रोड, विशाखापत्तनम-530001 में स्थित है, को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिये निम्नलिखित शर्तों के अधीन एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात्—

- (1) थेरापेयूटिक्स कैमिकल रिसर्च कार्पोरेशन, बीजग निर्यात निरीक्षण परिषद् द्वारा इस संबंध में नामित अधिकारी को अपने द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिये पर्याप्त सुविधायें

देगा जिससे कि खनिज और अयस्क (ग्रुप-1) को निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अन्तर्गत निरीक्षण प्रमाण पत्र दिया जा सके;

- (2) थेराप्यूटिक्स कैमिकल रिसर्च कॉर्पोरेशन, वीजग इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में ऐसे निर्देशों द्वारा आवद्ध होगा जो निदेशक (निरीक्षण और क्वालिटी नियंत्रण) समय-समय पर लिखित में दें।

[फाइल सं. 5/10/2001—ई आई एंड ई पी]

राज सिंह, उप सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 29th August, 2001

S.O. 2357.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of three years from the date of publication of this notification, Therapeutics Chemical Research Corporation, Vizag, located and having their registered office at Door No. 28-8-69 Satyanilayam, Raja Ram Mohan Roy Road, Visakhapatnam-530 001, as an Agency for the inspection of Minerals and Ores (Group-I) specified in the Schedule annexed to the Ministry of Commerce Notification number 3975 dated 20th December, 1965 prior to export, subject to the following conditions, namely :

- (i) that Therapeutics Chemical Research Corporation Vizag, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under Rule 4 of the Export of Minerals and Ores (Group-I) (Inspection) Rules, 1965;
- (ii) that Therapeutics Chemical Research Corporation, Vizag, in the performance of their

function under this notification shall be bound by such directives as the Director (Inspection and Quality Control) may give in writing from time to time.

[F. No. 5/10/2001-EI&EP]

RAJ SINGH, Dy. Secy.

नई दिल्ली, 29 अगस्त, 2001

का.भा. 2358.—केन्द्रीय सरकार निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1964 की धारा 12 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, वाणिज्य मंत्रालय की अधिसूचना सं. का.भा. 3975, तारीख 20 दिसम्बर, 1965 की संलग्न अनुसूची में विनिर्दिष्ट खनिज तथा अयस्क (ग्रुप-1) जैसे खनिज अयस्क का निर्यात से पूर्व निरीक्षण करने के लिये क्वालिटी सर्विस एंड सोल्यूशन प्राइवेट लिमिटेड, प्लॉट नं. 109, प्रथम तल, खलप मन्सन, वास्कोडिगाभा, गोवा-403802, जिसका रजिस्ट्रीकृत कार्यालय "साई अंबा", 'सी' विंग, स्टेशन रोड, विखरोली (पूर्व), मुम्बई-400083 में स्थित है, को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिये निम्नलिखित शर्तों के अधीन एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् —

- (1) क्वालिटी सर्विस एंड सोल्यूशन प्राइवेट लिमिटेड निर्यात निरीक्षण परिषद् द्वारा इस संबंध में नामित अधिकारी को अपने द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिये पर्याप्त सुविधाएं देगा जिससे कि खनिज और अयस्क (ग्रुप-1) के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अन्तर्गत निरीक्षण प्रमाण पत्र दिया जा सके,
- (2) क्वालिटी सर्विस एंड सोल्यूशन प्राइवेट लिमिटेड इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में ऐसे निर्देशों द्वारा आवद्ध होगी जो निदेशक (निरीक्षण और क्वालिटी नियंत्रण) समय-समय पर लिखित में दें।

[फाइल सं. 5/11/2001—ई आई एंड ई पी]

राज सिंह, उप सचिव

New Delhi, the 29th August, 2001

S.O. 2358.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rules (3) of Rule 12 of the Export (Quality Control and Inspection) Rules, 1964 the Central Government hereby recognises for a period of three years from the date of publication of this notification Quality Services & Solution Private Limited, Flat No. 109, First Floor, Khalap Minsion, Vasco-da-Gama, Goa-403 802 having their registered office at "Sai Shraddha", 'C' Wing, Station Road, Vikhroli (East), Mumbai-400 083, as an Agency for the inspection of minerals and ores Group-I, namely iron ore, specified in the Schedule to the Ministry of Commerce Notification Number S.O. 3975 dated 20th December, 1965, prior to export subject following conditions, namely :

- (i) that Quality Services & Solution Private Limited, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under Rule 4 of the Export of Minerals and Ores (Group-I) (Inspection) Rules, 1965;
- (ii) that Quality Services & Solution Private Limited in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control) may give in writing from time to time.

[F. No. 5/11/2001-EI&EP]

RAJ SINGH, Dy. Secy

मानव संसाधन विकास मंत्रालय

(महिला एवं बाल विकास विभाग)

नई दिल्ली, 28 अगस्त, 2001

क्र. प्र. 2359.—अनैतिक पणन (निवारण) अधिनियम, 1956 की धारा 13, उपधारा 4 के अन्तर्गत प्रदत्त शक्तियों

का उपयोग करते हुये, केन्द्र सरकार ऐतिव्यापार इस अधिनियम के अन्तर्गत अथवा व्यक्तियों के यौन-शोषण से संबंधित इस समय लागू किसी अन्य कानून के अन्तर्गत किये गये किसी अपराध, जो एक से अधिक राज्यों में किया गया हो, की जांच के प्रयोजनार्थ दिल्ली विशेष पुलिस स्थापना (केन्द्रीय जांच ब्यूरो) के सदस्यों को, जो पुलिस इंस्पेक्टर के रैंक के हों, अथवा इससे ऊपर हों, "ट्रेफिकिंग पुलिस अधिकारियों" के रूप में कार्य करने के लिये नियुक्त करती है। ये अधिकारी पूरे भारत में उक्त अधिनियम के अन्तर्गत विशेष पुलिस अधिकारी द्वारा किये जाने वाले कार्यों को करेंगे, और उनकी सभी शक्तियों का इस्तेमाल करेंगे।

[फा. संख्या 2-27/2001-सी.पी.]

आर. के. ओझा, उप-सचिव

MINISTRY OF HUMAN RESOURCE

DEVELOPMENT

(Department of Women and Child Development)

New Delhi, the 28th August, 2001

S.O. 2359.—In exercise of the powers conferred under section 13 sub-section 4 of the Immoral Traffic (Prevention) Act, 1956, the Central Government hereby appoints the members of the Delhi Special Police Establishment (CBI) of and above the rank of Inspector of Police to act as "trafficking police officers" for the purpose of investigating any offence under the said Act or under any other law for the time being in force dealing with sexual exploitation of persons and committed in more than one State and they shall exercise all the powers and discharge all the functions as are exercisable by special police officer under the said Act with the modification that they shall exercise such powers and discharge such functions in relation to the whole of India.

[F. No. 2-27/2001-GP]

R. K. OJHA, Dy. Secy.

पट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 10 सितम्बर, 2001

क्र. आ. 2360.— केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि गुजरात राज्य में विरमगाम से हरियाणा राज्य में पानीपत तक राजस्थान राज्य में चाकसू से होती हुई अपरिष्कृत तेल के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा संक्शनों के संवर्द्धन के कार्यान्वयन हेतु एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को यह प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के प्रयाजन के लिए उस भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जान का प्रस्ताव है, उपयोग के अधिकार का अर्जन करना आवश्यक है ;

अतः अब, केन्द्रीय सरकार, पट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

उक्त अनुसूची में वर्णित भूमि में हितवद् कोई व्यक्ति, उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाने के संबंध में लिखित रूप में आक्षेप, श्री सुनील शर्मा, सक्षम प्राधिकारी, सलाया-मथुरा पाइपलाइन (संवर्द्धन) परियोजना, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, 33, मुक्तानंद नगर, गोपालपुरा बाई-पास, जयपुर - 302 018 को कर सकेगा।

अनुसूची

तहसील : बाली		जिला : पाली		राज्य : राजस्थान	
गाँव का नाम	खसरा सं.	क्षेत्रफल			वर्ग मीटर
		हेक्टेयर	एयर		
1	2	3	4		5
नाना	263	0	17		42
	239	0	17		94
	233	0	12		45
	211	0	07		10
	223	0	00		34
	222	0	09		23
	221	0	06		92
	220	0	17		03
	219	0	15		52
	217	0	05		59
	216	0	16		38
	199	0	12		22
	200	0	05		20
	193	0	16		77
	194	0	06		50
	184/4171	0	16		38
	184	0	07		02
	114	0	09		49
	118	0	10		61
	119	0	18		46
	121	0	18		33
	122	0	25		03
	123	0	02		73
	125	0	17		55
	127	0	12		94
	52	0	13		00
	52/4094	0	10		74
	49	0	16		06
	42	0	13		91
	41	0	12		22
	506	0	26		46
	546	0	29		12
	547	0	02		08
	548	0	10		73

1	2	3	4	5
	587	0	04	14
	586	0	04	81
	585	0	13	47
	589	0	06	57
	590	0	07	67
	591	0	01	82
	672	0	17	18
	673	0	05	26
	678	0	01	00
	677	0	31	96
	676	0	12	23
चामुन्हेरी	2875	0	06	96
	2876	0	04	42
	2871	0	01	45
	2870	0	00	22
	2863	0	02	85
	2867	0	03	61
	2866	0	02	41
	2865	0	03	07
	2864	0	04	16
	2852	0	27	17
	2846	0	17	03
	2709	0	08	13
	2707	0	13	00
	2705	0	19	50
	2700 मिन	0	10	47
	2701	0	26	65
	2671	0	03	19
	2552	0	29	60
	2551	0	20	99
	2561	0	11	85
	2546	0	28	80
	2542	0	00	20
	2541	0	04	83
वीरमपुरा	1562	0	01	82
	1564	0	08	77
	1565	0	05	71
	1566	0	03	46
	1759	0	01	47

1	2	3	4	5
	1567	0	00	20
	1569	0	00	93
	1761	0	14	82
	1762	0	06	82
	1763	0	08	35
	1767	0	08	25
	1775	0	18	50
	1790	0	11	56
	1792	0	05	20
	1793	0	04	68
	1796	0	09	64
	1874	0	06	52
	1873	0	07	80
	1801	0	05	20
	1804	0	05	27
	1806	0	09	50
	1864	0	07	09
	1858	0	20	21
	1810	0	00	20
	1857	0	07	35
	1946	0	06	08
	1947	0	06	11
	1851	0	19	83
	1850	0	04	49
	1849	0	04	03
	1848	0	07	80
	1847	0	11	90
	1844/4716	0	06	76
	1844	0	02	73
	1842	0	06	31
	1840	0	06	56
	1839	0	06	63
	1837	0	11	96
	1836	0	03	19
	1830	0	00	21
	1831	0	04	21
	2004	0	04	68
	2005	0	07	93
	2006	0	06	44

1	2	3	4	5
	2011	0	07	46
	2010	0	01	25
	2022	0	10	53
	2024	0	12	78
	2028	0	08	49
भन्दर	1381	0	12	09
	1380	0	11	03
	1382	0	00	27
	1378	0	12	85
	1377	0	12	81
	1373	0	10	65
	1372	0	01	89
	1303	0	16	47
	1293	0	05	31
	1292	0	00	20
	1290	0	06	72
	1289	0	10	08
	1250	0	13	68
	609	0	09	99
	610	0	15	77
	613	0	04	86
	978	0	05	46
	978/1	0	01	20
	977	0	00	90
	976	0	04	16
	980	0	19	15
	981	0	07	07
	960	0	10	11
	959	0	00	20
	961	0	00	20
	958	0	01	30
	957	0	05	60
	956	0	07	54
	948	0	14	23
	888	0	11	96
	871	0	06	70
	869	0	04	68
	868	0	03	71
	859	0	02	09

1	2	3	4	5
	860	0	04	15
	856	0	05	33
	847	0	04	75
	846	0	00	78
	845	0	06	63
	841	0	04	75
	840	0	05	07
	831	0	07	22
	830	0	00	20
	829	0	07	01
	822	0	00	74
	807	0	00	20
	804	0	17	99
	805	0	04	96
	801	0	05	20
	800	0	03	68
	792	0	01	13
	793	0	04	81
	791	0	06	24
	783	0	03	59
	636	0	00	20
	782	0	01	41
	638	0	00	87
	637	0	00	69
	781	0	01	09
	780	0	03	12
	639	0	00	50
	778	0	04	09
	775	0	08	73
	644	0	06	13
	646	0	05	12
	648	0	04	50
	649	0	05	55
	650	0	05	70
	653	0	06	52
	658	0	05	81
	663	0	04	71
	664	0	04	92
	669	0	11	42

1	2	3	4	5
	670	0	07	90
	671	0	07	59
	683	0	03	61
	682	0	21	21
	681	0	00	51
कुनटिया	57	0	03	24
	56	0	11	48
	55	0	10	75
	54	0	00	20
	51	0	04	75
	52	0	00	44
	50	0	00	40
	49	0	04	58
	47	0	01	12
	48	0	02	24
	22	0	03	06
	21	0	02	73
	20	0	02	47
	19	0	03	77
	17	0	01	11
कोठर	822	0	01	33
	820	0	09	48
	790	0	04	91
	792	0	03	71
	793	0	07	80
	799	0	00	45
	794	0	02	09
	795	0	07	17
	785	0	25	46
खेडा	1267	0	02	38
	1282	0	00	20
	1281	0	00	64
	1268	0	01	40
	1280	0	02	27
	1269	0	00	20
	1279	0	03	64
	1270	0	01	40
	1278	0	03	54
	1271	0	00	20

1	2	3	4	5
	1274	0	07	67
	1273	0	01	24
	1251	0	07	22
	1252	0	04	10
	1248	0	03	71
	1247	0	02	99
	1246	0	03	19
	1244	0	09	23
	1240	0	01	24
	1236	0	16	71
	1224	0	01	04
	1223	0	05	40
	1221	0	07	80
	1222	0	00	20
	1212	0	00	78
	1206	0	00	72
	1209	0	06	70
	1208	0	08	39
	1202	0	16	45
	717	0	15	51
	719	0	05	09
	711	0	08	73
	689	0	00	58
	710	0	08	78
	696	0	06	95
	697	0	02	67
	698	0	12	03
	622	0	03	25
	625	0	02	00
	624	0	11	16
	623	0	11	54
	620	0	14	16
	619	0	07	87
	559	0	16	58
	564	0	22	01
	565	0	26	66
	563	0	10	31
	528	0	41	40
	527	0	12	18

1	2	3	4	5
	441	0	21	26
	499	0	07	85
	500	0	01	35
	513	0	11	70
	785	0	10	76
	797	0	17	88
	797/1 मिज	0	00	53
	852	0	05	72
	853	0	08	82
	851	0	23	42
	876	0	03	63
	877	0	22	48
	849	0	18	30
	847	0	08	63
	846	0	01	63
	842	0	02	13
	841	0	14	84
	935	0	03	42
	3669/4767	0	09	22
	3669/4768	0	21	20
	3669	0	37	14
	3670	0	26	49
	3671	0	03	16
	3672	0	27	65
	3674	0	18	97
	3676	0	06	61
	3678	0	05	43
	3677	0	15	84
	3740	0	15	28
	3742	0	21	27
	3741	0	07	55
	3741/ मिज	0	39	43
	3749	0	00	20
	3752	0	33	10
	3751	0	07	68
	3754	0	12	26
	3755/4984	0	53	91
	3773/1	0	09	18

1	2	3	4	5
	3773/2	0	16	58
	3773	0	10	08
	3790/4748	0	38	13
	3790/4963	0	00	47
भाद्रपद	849	0	03	66
	834	0	13	89
	835	0	02	29
	842	0	12	22
	516	0	10	43
	518	0	18	19
	530	0	13	37
	528	0	00	20
	527	0	00	98
	544	0	06	51
	525	0	13	21
	549	0	12	13
	551	0	03	91
	652	0	05	97
	553	0	05	18
	554	0	05	79
	555	0	06	90
	573	0	06	39
	571	0	06	92
	572	0	59	43
	798	0	00	89
	792	0	00	23
	793	0	03	85
	789	0	12	14
	669	0	14	53
	670	0	06	49
	671	0	01	83
	686	0	02	82
	685	0	05	34
	674	0	02	72
	675	0	06	43
	677	0	00	42
	753	0	07	16
	704	0	15	71

1	2	3	4	5
	703	0	08	42
	707	0	30	79
	243	0	07	58
	242	0	04	96
	244	0	04	79
	248	0	15	15
	249	0	00	20
	251	0	00	40
	253	0	03	51
	252	0	01	95
	254	0	00	59
	255	0	00	20
	261	0	12	25
	260	0	03	47
	267	0	03	24
	268	0	07	29
	266	0	00	35
	280	0	07	00
	281	0	00	20
	286	0	08	78
	290	0	03	18
	285	0	03	71
	298	0	00	33
	299	0	04	49
	300	0	07	35
	144	0	01	59
	301	0	00	40
	143	0	05	80
	303	0	09	69
	304	0	01	63
	142	0	00	20
	141	0	06	07
	140	0	09	52
	1078	0	09	43
	1079	0	13	33
	1089	0	15	24
	1090	0	30	99
	1092	0	06	71
	1094	0	10	35
बीजापुर	158	0	00	73

1	2	3	4	5
	159	0	17	25
	156	0	22	17
	257	0	21	20
	258	0	11	20
	145	0	09	75
	148	0	00	20
	142	0	09	33
	330	0	13	45
	407	0	00	20
	331	0	10	46
	372	0	23	80
	402	0	11	87
	373	0	00	22
	379	0	26	59
	377	0	19	67
	621	0	15	55
	623	0	01	34
	695/1	0	32	73
	695 मिन	0	02	25
	696	0	13	52
	694	0	00	20
	697	0	10	40
	698	0	04	43
	692	0	01	46
	691	0	03	67
	690	0	03	60
	689	0	04	37
	688	0	03	47
	687	0	04	28
	686	0	07	20
	685	0	04	34
	684	0	02	90
	683/1	0	04	43
	682/1	0	03	64
	681	0	04	04
	680/1	0	04	16
	679	0	07	23
	678	0	02	60
	677	0	03	13

1	2	3	4	5
	676	0	04	36
	675	0	03	84
	674	0	04	52
	673	0	03	15
	672	0	07	64
	671	0	04	16
	670	0	03	85
	669	0	01	43
पादरत्ना	553	0	08	66
	550	0	05	99
	544	0	05	59
	543	0	05	15
	542	0	04	56
	541	0	05	21
	538	0	11	23
	536	0	06	27
	531	0	07	80
	529	0	00	92
	530	0	00	39
	367	0	00	20
	366	0	14	44
	18	0	09	26
	21	0	09	77
	25	0	05	51
	24	0	00	90
	26	0	06	24
	27	0	01	93
	29	0	08	34
सेवाड़ी	218	0	08	65
	217	0	08	28
	216	0	08	51
	312	0	05	33
	311	0	04	24
	314	0	03	61
	324	0	08	01
	315	0	05	21
	320	0	15	73
	176	0	12	22
	177	0	00	72

1	2	3	4	5
	171	0	10	40
	78	0	16	06
	83	0	12	87
	84	0	13	49
	498	0	15	76
	499	0	05	66
	500	0	07	67
	503	0	08	71
	545	0	08	58
	507	0	09	23
	509	0	04	49
	513	0	04	42
	514	0	03	73
	515	0	05	46
	516	0	05	29
	517	0	05	27
	518	0	04	22
	597	0	26	36
	598	0	01	08
	643	0	17	20
	958	0	05	75
	957	0	05	59
	956	0	06	37
	955	0	05	53
	954	0	06	50
	952	0	07	80
	951	0	06	63
	950	0	08	28
	882	0	00	37
	881	0	39	02
	878	0	09	10
	875	0	09	52
	870	0	10	27
	871	0	03	64
बारवा	509	0	18	72
	510	0	06	70
	505	0	12	87
	424	0	09	75
	426	0	00	56
	420	0	00	20

1	2	3	4	5
	427	0	20	63
	491	0	04	42
	490	0	00	20
	488	0	07	41
	487	0	08	52
	486	0	07	41
	477	0	01	43
	479	0	08	84
	480	0	01	21
	478	0	00	20
	481	0	12	13
	482	0	00	35
	653	0	03	64
	1094	0	06	24
	1095	0	10	73
	813	0	02	36
	810	0	00	24
	812	0	01	49
	816	0	09	30
	815	0	00	26
	823	0	00	81
	824	0	12	19
	1075	0	07	28
	1074	0	06	11
	1073	0	02	28
	830	0	10	66
	833	0	06	11
	834	0	10	40
	835	0	02	41
	729	0	04	55
	730	0	02	73
	718	0	02	08
	737	0	03	64
	735	0	01	43
	745	0	07	54
	744	0	04	55
	743	0	13	07
	756	0	04	23
	742	0	12	03

1	2	3	4	5
	757	0	06	45
	758	0	00	23
पातावा	31	0	31	07
लुमावा	182	0	06	37
	183	0	21	49
	184	0	15	35
	185	0	10	31
	200	0	07	92
	210	0	00	90
	201	0	01	02
	210/1	0	05	13
	205	0	08	71
	204	0	08	02
सेसली	769	0	04	07
	773	0	00	20
	774	0	01	38
	768	0	00	48
	775	0	07	00
	759	0	00	40
	758	0	00	75
	776	0	00	20
	777	0	26	36
	815	0	00	20
	818	0	00	40
	811	0	06	56
	810	0	06	44
	965	0	03	80
	966	0	17	48
	967	0	03	73
	968	0	07	20
	969	0	08	35
	974	0	22	82
	840	0	07	72
	962	0	02	22
	963	0	21	67
	958	0	17	19
	959	0	02	26
	960	0	18	89
	845	0	07	27

1	2	3	4	5
	846	0	00	20
	847	0	02	86
	947	0	09	13
	856	0	14	56
	854	0	16	12
	860	0	08	45
पुनाडिया	507	0	08	39
	531	0	10	83
	523	0	10	69
	524	0	00	36
	522	0	00	20
	517	0	09	78
	362	0	00	91
	364	0	10	77
	363	0	00	62
	367	0	08	79
	340	0	01	95
	338	0	42	09
	334	0	11	96
	333	0	08	06
	244	0	04	60
	245	0	19	50
	250	0	12	63
	249	0	00	58
	260	0	16	70
	261	0	14	48
कोटवालिया	281	0	05	36
	286	0	11	42
	287	0	06	41
	1045	0	19	07
	1057	0	17	05
	1056	0	21	58
	1060	0	07	16
	1077	0	02	45
	1076	0	05	92
	1075	0	10	58
	1074	0	08	92
	1109	0	00	64
	1110	0	06	48

1	2	3	4	5
	1113	0	10	59
	1114	0	00	20
	1112	0	05	12
	1117	0	03	32
	1176	0	17	62
	1128	0	03	95
	991	0	03	72
	990	0	02	98
	980	0	06	40
	983	0	06	85
	982	0	05	81
	985	0	06	02
	725	0	06	15
	726	0	09	33
	729	0	11	10
	730	0	01	90
	723	0	05	46
	734	0	02	20
	735	0	01	61
	697	0	00	32
	700	0	17	66
	699	0	05	46
	657	0	17	62
	642	0	14	26
	655	0	01	86
	644	0	12	94
	649	0	00	34
	648	0	19	77
	646	0	14	82
सादलवा	88	0	01	37
	87	0	04	10
	86	0	02	02
	85	0	03	32
	84	0	02	99
	83	0	04	29
	82	0	03	77
	81	0	01	97
	80	0	00	20
	241	0	00	20

1	2	3	4	5
	239	0	05	20
	238	0	06	76
	236	0	00	24
	237	0	10	94
	213	0	04	88
	216/313	0	13	78
	216	0	09	04
	217	0	09	49
	220	0	09	82
	196	0	10	14
	182	0	10	66
	181	0	06	10
	180	0	02	11
	161	0	39	72
	153	0	21	71
	152	0	01	04
	144	0	00	20
	145	0	22	80
टीपरी	493	0	45	44
	485	0	31	20
	484	0	29	64
	473	0	33	15
	470	0	10	21
	469	0	06	18
	468	0	07	93
	467	0	07	80
	466	0	07	67
मुन्डारा	1	0	08	27
भीटवाड़ा	34	0	00	20
	347/1	0	18	33
	343	0	55	25
	278	0	27	79
	935	0	47	29
	934	0	18	49
	942	0	00	48
	897	0	05	74
	894	0	06	99
	893	0	00	20
	892	0	04	88

1	2	3	4	5
	891	0	01	53
	890	0	08	79
	889	0	00	20
	990	0	01	01
	991	0	08	31
	760	0	06	31
	773	0	09	42
	777	0	06	18
	778	0	03	03
	779	0	01	38
	780	0	01	05
	784	0	05	82
	783	0	01	20
	785	0	00	40
	788	0	02	98
	787	0	04	68
	792	0	10	21
	794	0	06	71
	797	0	07	02
	801	0	05	59
	802	0	07	50
	803	0	01	24

[फा. सं. 25011/33/2001-ओ.आर-1]

एस. चन्द्रशेखर, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 10th September, 2001

S. O. 2360.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Crude Oil through Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the "Augmentation of Viramgam – Chaksu, Chaksu – Panipat and Chaksu – Mathura sections of Salaya – Mathura Pipeline System".

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Sunil Sharma, Competent Authority, Salaya-Mathura Pipeline (Augmentation) Project, Indian Oil Corporation Limited, 33, Muktanand Nagar, Gopal Pura Bypass, Jaipur – 302 018.

SCHEDULE

Tehsil : BALI		District : PALI		State : RAJASTHAN	
Name of the Village	Khasara No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
NANA	263	0	17	42	
	239	0	17	94	
	233	0	12	45	
	211	0	07	10	
	223	0	00	34	
	222	0	09	23	
	221	0	06	92	
	220	0	17	03	
	219	0	15	52	
	217	0	05	59	
	216	0	16	38	
	199	0	12	22	
	200	0	05	20	
	193	0	16	77	
	194	0	06	50	
	184/4171	0	16	38	
	184	0	07	02	
	114	0	09	49	
	118	0	10	61	
	119	0	18	46	
	121	0	18	33	
	122	0	25	03	
	123	0	02	73	
	125	0	17	55	
	127	0	12	94	
	52	0	13	00	
	52/4094	0	10	74	
	49	0	16	06	
	42	0	13	91	
	41	0	12	22	
	506	0	26	46	
	546	0	29	12	
	547	0	02	08	
	548	0	10	73	

1	2	3	4	5
	587	0	04	14
	586	0	04	81
	585	0	13	47
	589	0	06	57
	590	0	07	67
	591	0	01	82
	672	0	17	18
	673	0	05	26
	678	0	01	00
	677	0	31	96
	676	0	12	23
CHAMUNDERI	2875	0	06	96
	2876	0	04	42
	2871	0	01	45
	2870	0	00	22
	2863	0	02	85
	2867	0	03	61
	2866	0	02	41
	2865	0	03	07
	2864	0	04	16
	2852	0	27	17
	2846	0	17	03
	2709	0	08	13
	2707	0	13	00
	2705	0	19	50
	2700Min	0	10	47
	2701	0	26	65
	2671	0	03	19
	2552	0	29	60
	2551	0	20	99
	2561	0	11	85
	2546	0	28	80
	2542	0	00	20
	2541	0	04	83
VIRAMPURA	1562	0	01	82
	1564	0	08	77
	1565	0	05	71
	1566	0	03	46
	1759	0	01	47

1	2	3	4	5
	1567	0	00	20
	1569	0	00	93
	1761	0	14	82
	1762	0	06	82
	1763	0	08	35
	1767	0	08	25
	1775	0	18	50
	1790	0	11	56
	1792	0	05	20
	1793	0	04	68
	1796	0	09	64
	1874	0	06	52
	1873	0	07	80
	1801	0	05	20
	1804	0	05	27
	1806	0	09	50
	1864	0	07	09
	1858	0	20	21
	1810	0	00	20
	1857	0	07	35
	1946	0	06	08
	1947	0	06	11
	1851	0	19	83
	1850	0	04	49
	1849	0	04	03
	1848	0	07	80
	1847	0	11	90
	1844/4716	0	06	76
	1844	0	02	73
	1842	0	06	31
	1840	0	06	56
	1839	0	06	63
	1837	0	11	96
	1836	0	03	19
	1830	0	00	21
	1831	0	04	21
	2004	0	04	68
	2005	0	07	93
	2006	0	06	44

1	2	3	4	5
	2011	0	07	46
	2010	0	01	25
	2022	0	10	53
	2024	0	12	78
	2028	0	08	49
BHANDAR	1381	0	12	09
	1380	0	11	03
	1382	0	00	27
	1378	0	12	85
	1377	0	12	81
	1373	0	10	65
	1372	0	01	89
	1303	0	16	47
	1293	0	05	31
	1292	0	00	20
	1290	0	06	72
	1289	0	10	08
	1250	0	13	68
	609	0	09	99
	610	0	15	77
	613	0	04	86
	978	0	05	46
	978/1	0	01	20
	977	0	00	90
	976	0	04	16
	980	0	19	15
	981	0	07	07
	960	0	10	11
	959	0	00	20
	961	0	00	20
	958	0	01	30
	957	0	05	60
	956	0	07	54
	948	0	14	23
	888	0	11	96
	871	0	06	70
	869	0	04	68
	868	0	03	71
	859	0	02	09

1	2	3	4	5
	860	0	04	15
	856	0	05	33
	847	0	04	75
	846	0	00	78
	845	0	06	63
	841	0	04	75
	840	0	05	07
	831	0	07	22
	830	0	00	20
	829	0	07	01
	822	0	00	74
	807	0	00	20
	804	0	17	99
	805	0	04	96
	801	0	05	20
	800	0	03	68
	792	0	01	13
	793	0	04	81
	791	0	06	24
	783	0	03	59
	636	0	00	20
	782	0	01	41
	638	0	00	87
	637	0	00	69
	781	0	01	09
	780	0	03	12
	639	0	00	50
	778	0	04	09
	775	0	08	73
	644	0	06	13
	646	0	05	12
	648	0	04	50
	649	0	05	55
	650	0	05	70
	653	0	06	52
	658	0	05	81
	663	0	04	71
	664	0	04	92
	669	0	11	42

1	2	3	4	5
	670	0	07	90
	671	0	07	59
	683	0	03	61
	682	0	21	21
	681	0	00	51
KUMTIYA	57	0	03	24
	56	0	11	48
	55	0	10	75
	54	0	00	20
	51	0	04	75
	52	0	00	44
	50	0	00	40
	49	0	04	58
	47	0	01	12
	48	0	02	24
	22	0	03	06
	21	0	02	73
	20	0	02	47
	19	0	03	77
	17	0	01	11
KOTHAR	822	0	01	33
	820	0	09	48
	790	0	04	91
	792	0	03	71
	793	0	07	80
	799	0	00	45
	794	0	02	09
	795	0	07	17
	785	0	25	46
BERA	1267	0	02	38
	1282	0	00	20
	1281	0	00	64
	1268	0	01	40
	1280	0	02	27
	1269	0	00	20
	1279	0	03	64
	1270	0	01	40
	1278	0	03	54
	1271	0	00	20

1	2	3	4	5
	1274	0	07	67
	1273	0	01	24
	1251	0	07	22
	1252	0	04	10
	1248	0	03	71
	1247	0	02	99
	1246	0	03	19
	1244	0	09	23
	1240	0	01	24
	1236	0	16	71
	1224	0	01	04
	1223	0	05	40
	1221	0	07	80
	1222	0	00	20
	1212	0	00	78
	1206	0	00	72
	1209	0	06	70
	1208	0	08	39
	1202	0	16	45
	717	0	15	51
	719	0	05	09
	711	0	08	73
	689	0	00	58
	710	0	08	78
	696	0	06	95
	697	0	02	67
	698	0	12	03
	622	0	03	25
	625	0	02	00
	624	0	11	16
	623	0	11	54
	620	0	14	16
	619	0	07	87
	559	0	16	58
	564	0	22	01
	565	0	26	66
	563	0	10	31
	528	0	41	40
	527	0	12	18

1	2	3	4	5
	441	0	21	26
	499	0	07	85
	500	0	01	35
	513	0	11	70
	785	0	10	76
	797	0	17	88
	797/1Min	0	00	53
	852	0	05	72
	853	0	08	82
	851	0	23	42
	876	0	03	63
	877	0	22	48
	849	0	18	30
	847	0	08	63
	846	0	01	63
	842	0	02	13
	841	0	14	84
	935	0	03	42
	3669/4767	0	09	22
	3669/4768	0	21	20
	3669	0	37	14
	3670	0	26	49
	3671	0	03	16
	3672	0	27	65
	3674	0	18	97
	3676	0	06	61
	3678	0	05	43
	3677	0	15	84
	3740	0	15	28
	3742	0	21	27
	3741	0	07	55
	3741/Min	0	39	43
	3749	0	00	20
	3752	0	33	10
	3751	0	07	68
	3754	0	12	26
	3755/4964	0	53	91
	3773/1	0	09	18

1	2	3	4	5
	3773/2	0	16	58
	3773	0	10	08
	3790/4748	0	38	13
	3790/4963	0	00	47
BHATOOND	849	0	03	66
	834	0	13	89
	835	0	02	29
	842	0	12	22
	516	0	10	43
	518	0	18	19
	530	0	13	37
	528	0	00	20
	527	0	00	98
	544	0	06	51
	525	0	13	21
	549	0	12	13
	551	0	03	91
	552	0	05	97
	553	0	05	18
	554	0	05	79
	555	0	06	90
	573	0	06	39
	571	0	06	92
	572	0	59	43
	798	0	00	89
	792	0	00	23
	793	0	03	85
	789	0	12	14
	669	0	14	53
	670	0	06	49
	671	0	01	83
	686	0	02	82
	685	0	05	34
	674	0	02	72
	675	0	06	43
	677	0	00	42
	753	0	07	16
	704	0	15	71

1	2	3	4	5
	703	0	08	42
	707	0	30	79
	243	0	07	58
	242	0	04	96
	244	0	04	79
	248	0	15	15
	249	0	00	20
	251	0	00	40
	253	0	03	51
	252	0	01	95
	254	0	00	59
	255	0	00	20
	261	0	12	25
	260	0	03	47
	267	0	03	24
	268	0	07	29
	266	0	00	35
	280	0	07	00
	281	0	00	20
	286	0	08	78
	290	0	03	18
	285	0	03	71
	298	0	00	33
	299	0	04	49
	300	0	07	35
	144	0	01	59
	301	0	00	40
	143	0	05	80
	303	0	09	69
	304	0	01	63
	142	0	00	20
	141	0	06	07
	140	0	09	52
	1078	0	09	43
	1079	0	13	33
	1089	0	15	24
	1090	0	30	99
	1092	0	06	71
	1094	0	10	35
BEEJAPUR	158	0	00	73

1	2	3	4	5
	159	0	17	25
	156	0	22	17
	257	0	21	20
	258	0	11	20
	145	0	09	75
	148	0	00	20
	142	0	09	33
	330	0	13	45
	407	0	00	20
	331	0	10	46
	372	0	23	80
	402	0	11	87
	373	0	00	22
	379	0	26	59
	377	0	19	67
	621	0	15	55
	623	0	01	34
	695/1	0	32	73
	695Min	0	02	25
	696	0	13	52
	694	0	00	20
	697	0	10	40
	698	0	04	43
	692	0	01	46
	691	0	03	67
	690	0	03	60
	689	0	04	37
	688	0	03	47
	687	0	04	28
	686	0	07	20
	685	0	04	34
	684	0	02	90
	683/1	0	04	43
	682/1	0	03	64
	681	0	04	04
	680/1	0	04	16
	679	0	07	23
	678	0	02	60
	677	0	03	13

1	2	3	4	5
	676	0	04	36
	675	0	03	84
	674	0	04	52
	673	0	03	15
	672	0	07	64
	671	0	04	16
	670	0	03	85
	669	0	01	43
PADARLA	553	0	08	66
	550	0	05	99
	544	0	05	59
	543	0	05	15
	542	0	04	56
	541	0	05	21
	538	0	11	23
	536	0	06	27
	531	0	07	80
	529	0	00	92
	530	0	00	39
	367	0	00	20
	366	0	14	44
	18	0	09	26
	21	0	09	77
	25	0	05	51
	24	0	00	90
	26	0	06	24
	27	0	01	93
	29	0	08	34
SEWARI	218	0	08	65
	217	0	08	28
	216	0	08	51
	312	0	05	33
	311	0	04	24
	314	0	03	61
	324	0	08	01
	315	0	05	21
	320	0	15	73
	176	0	12	22
	177	0	00	72

1	2	3	4	5
	171	0	10	40
	78	0	16	06
	83	0	12	87
	84	0	13	49
	498	0	15	76
	499	0	05	66
	500	0	07	67
	503	0	08	71
	545	0	08	58
	507	0	09	23
	509	0	04	49
	513	0	04	42
	514	0	03	73
	515	0	05	46
	516	0	05	29
	517	0	05	27
	518	0	04	22
	597	0	26	36
	598	0	01	08
	643	0	17	20
	958	0	05	75
	957	0	05	59
	956	0	06	37
	955	0	05	53
	954	0	06	50
	952	0	07	80
	951	0	06	63
	950	0	08	28
	882	0	00	37
	881	0	39	02
	878	0	09	10
	875	0	09	52
	870	0	10	27
	871	0	03	64
BARWA	509	0	18	72
	510	0	06	70
	505	0	12	87
	424	0	09	75
	426	0	00	56
	420	0	00	20

1	2	3	4	5
	427	0	20	63
	491	0	04	42
	490	0	00	20
	488	0	07	41
	487	0	08	52
	486	0	07	41
	477	0	01	43
	479	0	08	84
	480	0	01	21
	478	0	00	20
	481	0	12	13
	482	0	00	35
	653	0	03	64
	1094	0	06	24
	1095	0	10	73
	813	0	02	36
	810	0	00	24
	812	0	01	49
	816	0	09	30
	815	0	00	26
	823	0	00	81
	824	0	12	19
	1075	0	07	28
	1074	0	06	11
	1073	0	02	28
	830	0	10	66
	833	0	06	11
	834	0	10	40
	835	0	02	41
	729	0	04	55
	730	0	02	73
	718	0	02	08
	737	0	03	64
	735	0	01	43
	745	0	07	54
	744	0	04	55
	743	0	13	07
	756	0	04	23
	742	0	12	03

1	2	3	4	5
	757	0	06	45
	758	0	00	23
PATAWA	31	0	31	07
LUNAWA	182	0	06	37
	183	0	21	49
	184	0	15	35
	185	0	10	31
	200	0	07	92
	210	0	00	90
	201	0	01	02
	210/1	0	05	13
	205	0	08	71
	204	0	08	02
SESLI	769	0	04	07
	773	0	00	20
	774	0	01	38
	768	0	00	48
	775	0	07	00
	759	0	00	40
	758	0	00	75
	776	0	00	20
	777	0	26	36
	815	0	00	20
	818	0	00	40
	811	0	06	56
	810	0	06	44
	965	0	03	80
	966	0	17	48
	967	0	03	73
	968	0	07	20
	969	0	08	35
	974	0	22	82
	840	0	07	72
	962	0	02	22
	963	0	21	67
	958	0	17	19
	959	0	02	26
	960	0	18	89
	845	0	07	27

1	2	3	4	5
	846	0	00	20
	847	0	02	86
	947	0	09	13
	856	0	14	56
	854	0	16	12
	860	0	08	45
	507	0	08	39
PUNADIYA	531	0	10	83
	523	0	10	69
	524	0	00	36
	522	0	00	20
	517	0	09	78
	362	0	00	91
	364	0	10	77
	363	0	00	62
	367	0	08	79
	340	0	01	95
	338	0	42	09
	334	0	11	96
	333	0	08	06
	244	0	04	60
	245	0	19	50
	250	0	12	63
	249	0	00	58
	260	0	16	70
	261	0	14	48
	281	0	05	36
	286	0	11	42
	287	0	06	41
KOTBALIYAN	1045	0	19	07
	1057	0	17	05
	1056	0	21	58
	1060	0	07	16
	1077	0	02	45
	1076	0	05	92
	1075	0	10	58
	1074	0	08	92
	1109	0	00	64
	1110	0	06	48

1	2	3	4	5
	1113	0	10	59
	1114	0	00	20
	1112	0	05	12
	1117	0	03	32
	1176	0	17	62
	1128	0	03	95
	991	0	03	72
	990	0	02	98
	980	0	06	40
	983	0	06	85
	982	0	05	81
	985	0	06	02
	725	0	06	15
	726	0	09	33
	729	0	11	10
	730	0	01	90
	723	0	05	46
	734	0	02	20
	735	0	01	61
	697	0	00	32
	700	0	17	66
	699	0	05	46
	657	0	17	62
	642	0	14	26
	655	0	01	86
	644	0	12	94
	649	0	00	34
	648	0	19	77
	646	0	14	82
SADALWA	88	0	01	37
	87	0	04	10
	86	0	02	02
	85	0	03	32
	84	0	02	99
	83	0	04	29
	82	0	03	77
	81	0	01	97
	80	0	00	20
	241	0	00	20

1	2	3	4	5
	239	0	05	20
	238	0	06	76
	236	0	00	24
	237	0	10	94
	213	0	04	88
	216/313	0	13	78
	216	0	09	04
	217	0	09	49
	220	0	09	82
	196	0	10	14
	182	0	10	66
	181	0	06	10
	180	0	02	11
	161	0	39	72
	153	0	21	71
	152	0	01	04
	144	0	00	20
	145	0	22	80
TEEPRI	493	0	45	44
	485	0	31	20
	484	0	29	64
	473	0	33	15
	470	0	10	21
	469	0	06	18
	468	0	07	93
	467	0	07	80
	466	0	07	67
MUNDARA	1	0	08	27
BHEETWARA	34	0	00	20
	347/1	0	18	33
	343	0	55	25
	278	0	27	79
	935	0	47	29
	934	0	18	49
	942	0	00	48
	897	0	05	74
	894	0	06	99
	893	0	00	20
	892	0	04	88

1	2	3	4	5
	891	0	01	53
	890	0	08	79
	889	0	00	20
	990	0	01	01
	991	0	08	31
	760	0	06	31
	773	0	09	42
	777	0	06	18
	778	0	03	03
	779	0	01	38
	780	0	01	05
	784	0	05	82
	783	0	01	20
	785	0	00	40
	788	0	02	98
	787	0	04	68
	792	0	10	21
	794	0	06	71
	797	0	07	02
	801	0	05	59
	802	0	07	50
	803	0	01	24

[No. R-25011/33/2001 OR-I]
S. CHANDRASEKHAR, Under Secy.

नई दिल्ली, 11 सितम्बर, 2001

का. आ. 2361.— केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुमरण में और का. आ. 1063 तारीख 12 अप्रैल, 1999 को अधिक्रान्त करते हुए मध्य प्रदेश राज्य में बरवानी, खरगांव, धार तथा इन्दौर जिले (मुम्बई-मनमाड पाइपलाइन विस्तार परियोजना) और सागर, टीकमगढ़ तथा दतिया जिले (बीना-झांसी कानपुर पेट्रोलियम उत्पाद, पाइपलाइन परियोजना) के क्षेत्र के भीतर उक्त अधिनियम के अधीन मुम्बई-मनमाड पाइपलाइन विस्तार परियोजना और बीना-झांसी-कानपुर पेट्रोलियम पाइपलाइन परियोजना के लिए, भारत पेट्रोलियम कारपोरेशन लि० में प्रतिनियुक्ति पर

मध्य प्रदेश सरकार, वाणिज्य और उद्योग विभाग के संयुक्त निदेशक श्री बी.पी. पाठक को सक्षम प्राधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[फा. सं. 31015/17/98-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 11th September, 2001

S. O. 2361.— In pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), and in supersession of S.O. 1063 dated 12th April, 1999, the Central Government hereby authorises Shri V.P. Pathak, Joint Director, Commerce and Industries Department, Government of Madhya Pradesh on deputation to Bharat Petroleum Corporation Limited to perform the functions of the competent authority for Mumbai-Manmad Pipeline Extension Project and Bina-Jhansi-Kanpur Petroleum ^{Product} Pipeline Project under the said Act within the territory of the districts of Barwani, Khargaon, Dhar and Indore (in respect of Mumbai-Manmad Pipeline Extension Project) and the districts of Sagar, Tikamgarh and Datia (in respect of Bina-Jhansi-Kanpur Petroleum Product Pipeline Project) in the State of Madhya Pradesh.

[No R-31015/17/98 OR-II]
HARISHKUMAR Under Secy

नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2362.— केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि गुजरात राज्य में विरमगाम से हरियाणा राज्य में पानीपत तक राजस्थान राज्य में चाकसू से होती हुई कच्चे तेल के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा "सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्द्धन" के कार्यान्वयन हेतु एक पाइपलाइन बिछाई जानी चाहिए;

और, केन्द्रीय सरकार को यह प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के लिए उस भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन करना आवश्यक है;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आदेश की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि से हितबद्ध कोई व्यक्ति, उस तारीख से जिसको, भारत का राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाने के संबंध में लिखित रूप में आक्षेप, श्री सुनील शर्मा, सक्षम प्राधिकारी, सलाया-मथुरा पाइपलाइन (संवर्द्धन) परियोजना, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, 33, मुक्तानन्द नगर, गोपालपुरा बाई पास के निकट, जयपुर (राजस्थान) 302018, को कर सकेगा ।

अनुसूची

तहसील: विराटनगर

जिला: जयपुर

राज्य: राजस्थान

गोंव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
सुरपुरा	675	0	01	10
	685	0	00	22
	686	0	00	48
	687	0	11	07
	697	0	03	30
	698	0	02	20
	699	0	02	75
	700	0	06	27
	693	0	06	60
	788	0	02	20
	785	0	01	38
	783	0	08	45
	784	0	00	71
	601/995	0	15	84
	596	0	16	61
	555	0	07	22
	554	0	04	10
	551	0	04	13
	552	0	10	45
खातोलाई	1133	0	14	74
	1134	0	19	75
	1241	0	11	77
	1240	0	10	01
	1238	0	03	92
	1237	0	03	96
	1236	0	04	19
	1235	0	03	86
	1234	0	03	89
	1233	0	03	30
	1182	0	02	64
	1184	0	05	17
	1185	0	16	50
	1173	0	05	96
	1172	0	04	63

1	2	3	4	5
	1171	0	09	77
	1170	0	04	24
	1146	0	10	95
	1149	0	08	80
	1148	0	11	12
	1151	0	01	58
	1111	0	01	02
	1110	0	00	21
	1102	0	11	29
	1104	0	03	87
	1105	0	06	16
	1097	0	11	50
	1096	0	00	86
	1093	0	05	52
	1094	0	00	26
	1091	0	03	87
	1090	0	07	67
	1052	0	10	00
	1014	0	04	90
	1015	0	08	39
	1011	0	04	84
	1017	0	00	20
	1018	0	01	76
	1019	0	03	03
	969	0	13	39
	970	0	00	20
	1020	0	03	73
	947	0	02	42
	946	0	03	30
	945	0	03	30
	942	0	09	13
	929	0	10	78
भाभरू	2140	0	05	91
	2139	0	05	69
	2138	0	04	58
	2137	0	02	10
	2133	0	07	48
	2132	0	07	70
	2131	0	08	65
	2128	0	00	20
	2129	0	02	75
	2181	0	08	69
	2182	0	00	20
	2183	0	02	40
	2186	0	01	36

1	2	3	4	5
	2184	0	05	58
	2185	0	10	08
	2195	0	04	51
	2194	0	03	85
	2204	0	06	93
	2205	0	06	40
	2230	0	10	25
	2231	0	01	82
	2228	0	08	90
	2225	0	06	05
	2223	0	00	88
	2260	0	02	15
	2281	0	02	97
	2262	0	02	45
	2264	0	06	49
	2275	0	05	72
	2274	0	00	20
	2272	0	06	22
	2271	0	04	90
	2270	0	01	76
	2323	0	06	88
	2324	0	01	60
	2325	0	02	75
	2316	0	01	38
	2326	0	02	56
	2327	0	03	96
	2328	0	01	55
	2329	0	01	87
	2330	0	02	56
	2335	0	07	48
	2388	0	00	66
	2382	0	00	48
	2386	0	07	53
	2385	0	05	50
	2392	0	09	74
	2396	0	15	05
	2403	0	05	12
	2438	0	02	42
	2430	0	00	20
	2431	0	06	90
	2432	0	07	21
	2434	0	04	07
	2433	0	00	44
	2750	0	03	55
	2747	0	01	03
	2748	0	01	98

1	2	3	4	5
	2745	0	06	24
	2767	0	04	40
	2766	0	00	20
	2786	0	06	56
	2786/4616	0	02	79
	2787	0	05	56
	2785	0	03	85
	2783	0	03	33
	2782	0	02	81
	2780	0	06	88
	2778	0	12	60
	2846	0	02	97
	2845	0	01	10
	2850	0	02	42
	2887	0	04	64
	2886	0	08	88
	2884	0	06	38
	2916	0	10	29
	2917	0	04	29
	2925	0	04	56
	2927	0	01	55
	2924	0	02	02
	2929	0	04	19
	3012	0	13	42
	3007	0	00	20
	3002	0	31	84
	2950	0	00	98
	2951	0	02	64
	2953	0	05	02
	2954	0	04	83
	2955	0	06	82
	2975	0	12	27
	2974	0	06	55
	2973	0	06	30
	2960	0	00	53
	2972	0	10	95
	2963	0	04	45
	2968	0	03	95
	2964	0	19	53
	1021	0	05	15
	1022	0	09	66
	1023	0	00	20
	1024	0	08	77
	1025	0	05	83
	1027	0	00	42
	1026	0	04	05

1	2	3	4	5
	1032	0	03	06
	1033	0	00	86
	1031	0	03	86
	1034	0	06	66
	932	0	04	95
	933	0	04	79
	935	0	04	84
	936	0	00	20
	938	0	05	01
	941	0	02	31
	875	0	07	43
	874	0	01	62
	876	0	08	20
	877	0	07	10
	866	0	10	01
	865	0	02	68
	852	0	05	50
	853	0	06	38
	854	0	01	14
	848	0	02	64
ढाणी गैसकान	679	0	00	63
	680	0	09	13
	682	0	06	71
	691	0	01	68
	690	0	04	51
	692	0	04	73
	693	0	12	10
	698	0	06	50
	699	0	00	60
	597	0	03	63
	596	0	02	37
	595	0	04	29
	599	0	02	86
	600	0	07	92
	601	0	07	43
	511	0	03	74
	512	0	03	52
	513	0	02	97
	515	0	03	08
	516	0	06	16
	518	0	00	28
	519	0	01	24
	520	0	00	77
	177	0	03	38
	173	0	02	04

1	2	3	4	5
	174	0	02	70
	175	0	00	55
	184	0	00	53
	171	0	02	31
	185	0	02	53
	170	0	03	63
	169	0	01	32
	163	0	12	47
	164	0	00	74
	162	0	00	68
	166	0	01	54
	160	0	02	27
	159	0	07	56
	157	0	05	40
	158	0	04	59
	150	0	00	35
	100	0	01	12
	149	0	01	98
	148	0	16	56
	147	0	01	35
	115	0	09	00
	106	0	00	20
	114	0	05	04
	112	0	06	98
	111	0	00	40
	119	0	07	02
	120	0	06	84
	124	0	12	99
	123	0	01	76
बरहडोदा	349	0	42	39
	354	0	19	70
	355	0	09	19
	367	0	09	08
	356	0	11	35
	366	0	00	20
	365	0	05	72
	426	0	03	41
	428	0	02	28
	427	0	00	20
	422	0	05	12
	417	0	04	29
	418	0	03	67
	411	0	02	60
	408	0	03	11
	405	0	02	25

1	2	3	4	5
	404	0	02	20
	403	0	03	38
	399	0	06	83
	400	0	01	17
हनुमान नगर	3774	0	12	43
	3777	0	10	92
	3778	0	06	38
	3779	0	07	48
	3746	0	02	67
	3745	0	02	85
	3721	0	05	58
	3744	0	02	11
	3735	0	00	20
	3722	0	06	35
	3723	0	09	90
	3726	0	04	07
	3727	0	07	96
	3552	0	26	94
	3537	0	09	70
	3554	0	03	87
	3536/3874	0	18	79
	3529	0	00	44
	3517	0	09	24
	3519	0	04	07
	3524	0	07	70
	3522	0	08	80
	3494	0	00	44
	3485	0	08	69
	3483	0	04	18
	3479	0	04	02
	3478	0	04	98
	3456	0	09	68
	3455	0	10	07
	3454	0	09	57
	3452	0	09	68
	3273	0	04	13
	3272	0	04	46
	3271	0	05	31
	3270	0	00	44
	3269	0	03	47
	3262	0	09	34
बनोपार्क	1274	0	00	53
	1279	0	05	23
	1266	0	07	04
	1265	0	07	69

1	2	3	4	5
	1264	0	00	45
	1281	0	06	38
	1282	0	05	17
	1283	0	05	28
	1284	0	05	50
	1285	0	05	50
	1289	0	05	14
	1291	0	00	20
	1288	0	08	72
	1204	0	04	07
	1198	0	04	76
	1199	0	01	32
	1171	0	08	67
	1170	0	00	20
	1169	0	05	11
	1168	0	08	52
	1201	0	00	44
	1409	0	03	96
बागाबास अहिरान	1159	0	04	15
	1156	0	04	15
	1158	0	00	20
	1157	0	05	17
	1111	0	06	33
	1113	0	04	13
	1109	0	00	55
	1108	0	08	06
	1107	0	00	41
	1121	0	00	27
	1122	0	00	20
	1102	0	00	20
	1104	0	00	47
	1100	0	01	05
	1098	0	04	70
	1094	0	01	50
	1097	0	00	25
	1096	0	00	25
	1090	0	06	98
	1091	0	01	05
	1068	0	01	76
	1067	0	00	20
	1070	0	10	06
	1032	0	09	18
	1031	0	00	20
	964	0	08	22
	966	0	01	98

1	2	3	4	5
	960	0	03	36
	958	0	03	63
	948	0	04	07
	946	0	00	50
	944	0	00	22
	943	0	03	16
	934	0	01	85
	935	0	05	18
	936	0	00	55
	937	0	04	90
	904/2210	0	00	42
	906/2209	0	00	20
	905	0	05	25
	866	0	01	61
	869	0	00	43
	867	0	02	42
	838/2202	0	00	77
	839	0	03	37
	864	0	00	30
	838	0	03	31
	840	0	00	30
	837	0	13	93
	817	0	10	80
	829	0	01	35
	827	0	13	41
तलियारा	1915	0	09	36
	1916	0	03	41
	1917	0	03	25
	1990	0	00	20
	1995	0	03	99
	1996	0	01	48
	2016	0	00	34
	2015	0	08	13
	2018	0	05	70
	2017	0	00	20
	2038	0	01	62
	2039	0	00	46
	2040	0	03	05
	2042	0	00	20

[फ़. सं. 25011/32/2001-ओ.आर-I]

एस. चन्द्रशेखर, अप्रर सचिव

New Delhi, the 12th September, 2001

S. O. 2362.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana *via* Chaksu in the State of Rajasthan, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the "Augmentation of Viramgam-Chaksu, Chaksu-Panipat & Chaksu-Mathura sections of Salaya-Mathura pipeline System" ;

And, whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Sunil Sharma, Competent Authority, Salaya-Mathura Pipeline (Augmentation) Project, Indian Oil Corporation Limited, 33, Muktanand Nagar, Near Gopalpura Bye Pass, Jaipur (Rajasthan) - 302018.

SCHEDULE

Tehsil: Viratnagar

District: Jaipur

State: Rajasthan

Name of Village	Khasara No.	Area		
		Hectare	Are	Sq.mtr.
1	2	3	4	5
Surpura	675	0	01	10
	685	0	00	22
	686	0	00	48
	687	0	11	07
	697	0	03	30
	698	0	02	20
	699	0	02	75
	700	0	06	27
	693	0	06	60
	788	0	02	20
	785	0	01	38
	783	0	08	45
	784	0	00	71
	601/995	0	15	84
	596	0	16	61
	555	0	07	22
	554	0	04	10
	551	0	04	13
	552	0	10	45
Khatolai	1133	0	14	74
	1134	0	19	75
	1241	0	11	77
	1240	0	10	01
	1238	0	03	92
	1237	0	03	96
	1236	0	04	19
	1235	0	03	86
	1234	0	03	89
	1233	0	03	30
	1182	0	02	64
	1184	0	05	17
	1185	0	16	50
	1173	0	05	96
	1172	0	04	63

1	2	3	4	5
	1171	0	09	77
	1170	0	04	24
	1146	0	10	95
	1149	0	08	80
	1148	0	11	12
	1151	0	01	58
	1111	0	01	02
	1110	0	00	21
	1102	0	11	29
	1104	0	03	87
	1105	0	06	16
	1097	0	11	50
	1096	0	00	88
	1093	0	05	52
	1094	0	00	26
	1091	0	03	87
	1090	0	07	67
	1052	0	10	00
	1014	0	04	90
	1015	0	08	39
	1011	0	04	84
	1017	0	00	20
	1018	0	01	76
	1019	0	03	03
	969	0	13	39
	970	0	00	20
	1020	0	03	73
	947	0	02	42
	946	0	03	30
	945	0	03	30
	942	0	09	13
	929	0	10	78
Bhabhru	2140	0	05	91
	2139	0	05	69
	2138	0	04	58
	2137	0	02	10
	2133	0	07	48
	2132	0	07	70
	2131	0	08	65
	2128	0	00	20
	2129	0	02	75
	2181	0	08	69
	2182	0	00	20
	2183	0	02	40
	2186	0	01	36

1	2	3	4	5
	2184	0	05	58
	2185	0	10	08
	2195	0	04	51
	2194	0	03	85
	2204	0	06	93
	2205	0	06	40
	2230	0	10	25
	2231	0	01	82
	2228	0	08	90
	2225	0	06	05
	2223	0	00	88
	2260	0	02	15
	2261	0	02	97
	2262	0	02	45
	2264	0	06	49
	2275	0	05	72
	2274	0	00	20
	2272	0	06	22
	2271	0	04	90
	2270	0	01	76
	2323	0	06	88
	2324	0	01	60
	2325	0	02	75
	2316	0	01	38
	2326	0	02	56
	2327	0	03	96
	2328	0	01	55
	2329	0	01	87
	2330	0	02	56
	2335	0	07	48
	2388	0	00	66
	2382	0	00	48
	2386	0	07	53
	2385	0	05	50
	2392	0	09	74
	2396	0	15	05
	2403	0	05	12
	2438	0	02	42
	2430	0	00	20
	2431	0	06	90
	2432	0	07	21
	2434	0	04	07
	2433	0	00	44
	2750	0	03	55
	2747	0	01	03
	2748	0	01	98

1	2	3	4	5
	2745	0	06	24
	2767	0	04	40
	2766	0	00	20
	2786	0	06	56
	2786/4616	0	02	79
	2787	0	05	56
	2785	0	03	85
	2783	0	03	33
	2782	0	02	81
	2780	0	06	88
	2778	0	12	60
	2846	0	02	97
	2845	0	01	10
	2850	0	02	42
	2887	0	04	64
	2886	0	08	88
	2884	0	06	38
	2916	0	10	29
	2917	0	04	29
	2925	0	04	56
	2927	0	01	55
	2924	0	02	02
	2929	0	04	19
	3012	0	13	42
	3007	0	00	20
	3002	0	31	84
	2950	0	00	98
	2951	0	02	64
	2953	0	05	02
	2954	0	04	83
	2955	0	06	82
	2975	0	12	27
	2974	0	06	55
	2973	0	06	30
	2960	0	00	53
	2972	0	10	95
	2963	0	04	45
	2968	0	03	95
	2964	0	19	53
	1021	0	05	15
	1022	0	09	66
	1023	0	00	20
	1024	0	08	77
	1025	0	05	83
	1027	0	00	42
	1026	0	04	05

1	2	3	4	5
	1032	0	03	06
	1033	0	00	86
	1031	0	03	86
	1034	0	06	66
	932	0	04	95
	933	0	04	79
	935	0	04	84
	936	0	00	20
	938	0	05	01
	941	0	02	31
	875	0	07	43
	874	0	01	62
	876	0	08	20
	877	0	07	10
	866	0	10	01
	865	0	02	68
	852	0	05	50
	853	0	06	38
	854	0	01	14
	848	0	02	64
Dhani Gaiskan	679	0	00	63
	680	0	09	13
	682	0	06	71
	691	0	01	68
	690	0	04	51
	692	0	04	73
	693	0	12	10
	698	0	06	50
	699	0	00	60
	597	0	03	63
	596	0	02	37
	595	0	04	29
	599	0	02	86
	600	0	07	92
	601	0	07	43
	511	0	03	74
	512	0	03	52
	513	0	02	97
	515	0	03	08
	516	0	06	16
	518	0	00	28
	519	0	01	24
	520	0	00	77
	177	0	03	38
	173	0	02	04

1	2	3	4	5
	174	0	02	70
	175	0	00	55
	184	0	00	53
	171	0	02	31
	185	0	02	53
	170	0	03	63
	169	0	01	32
	163	0	12	47
	164	0	00	74
	162	0	00	68
	166	0	01	54
	160	0	02	27
	159	0	07	56
	157	0	05	40
	158	0	04	59
	150	0	00	35
	100	0	01	12
	149	0	01	98
	148	0	16	56
	147	0	01	35
	115	0	09	00
	106	0	00	20
	114	0	05	04
	112	0	06	98
	111	0	00	40
	119	0	07	02
	120	0	06	84
	124	0	12	99
	123	0	01	76
Bahdoda	349	0	42	39
	354	0	19	70
	355	0	09	19
	367	0	09	08
	356	0	11	95
	366	0	00	20
	365	0	05	72
	426	0	03	41
	428	0	02	28
	427	0	00	20
	422	0	05	12
	417	0	04	29
	418	0	03	67
	411	0	02	60
	408	0	03	11
	405	0	02	25

1	2	3	4	5
	404	0	02	20
	403	0	03	38
	399	0	06	83
	400	0	01	17
Hanuman Nagar	3774	0	12	43
	3777	0	10	92
	3778	0	06	38
	3779	0	07	48
	3746	0	02	67
	3745	0	02	85
	3721	0	05	58
	3744	0	02	11
	3735	0	00	20
	3722	0	06	35
	3723	0	09	90
	3726	0	04	07
	3727	0	07	96
	3552	0	26	94
	3537	0	09	70
	3554	0	03	87
	3536/3874	0	18	79
	3529	0	00	44
	3517	0	09	24
	3519	0	04	07
	3524	0	07	70
	3522	0	08	80
	3494	0	00	44
	3485	0	08	69
	3483	0	04	18
	3479	0	04	02
	3478	0	04	98
	3458	0	09	68
	3455	0	10	07
	3454	0	09	57
	3452	0	09	68
	3273	0	04	13
	3272	0	04	46
	3271	0	05	31
	3270	0	00	44
	3269	0	03	47
	3262	0	09	34
Bani Park	1274	0	00	53
	1279	0	05	23
	1266	0	07	04
	1265	0	07	69

1	2	3	4	5
	1264	0	00	45
	1281	0	06	38
	1282	0	05	17
	1283	0	05	28
	1284	0	05	50
	1285	0	05	50
	1289	0	05	14
	1291	0	00	20
	1288	0	08	72
	1204	0	04	07
	1198	0	04	76
	1199	0	01	32
	1171	0	08	67
	1170	0	00	20
	1169	0	05	11
	1168	0	08	52
	1201	0	00	44
	1409	0	03	96
Bagawas Ahiran	1159	0	04	15
	1156	0	04	15
	1158	0	00	20
	1157	0	05	17
	1111	0	06	33
	1113	0	04	13
	1109	0	00	55
	1108	0	08	06
	1107	0	00	41
	1121	0	00	27
	1122	0	00	20
	1102	0	00	20
	1104	0	00	47
	1100	0	01	05
	1098	0	04	70
	1094	0	01	50
	1097	0	00	25
	1096	0	00	25
	1090	0	06	98
	1091	0	01	05
	1068	0	01	76
	1067	0	00	20
	1070	0	10	06
	1032	0	09	18
	1031	0	00	20
	964	0	08	22
	966	0	01	98

1	2	3	4	5
	960	0	03	36
	958	0	03	63
	948	0	04	07
	946	0	00	50
	944	0	00	22
	943	0	03	16
	934	0	01	85
	935	0	05	18
	936	0	00	55
	937	0	04	90
	904/2210	0	00	42
	906/2209	0	00	20
	905	0	05	25
	866	0	01	61
	869	0	00	43
	867	0	02	42
	838/2202	0	00	77
	839	0	03	37
	864	0	00	30
	838	0	03	31
	840	0	00	30
	837	0	13	93
	817	0	10	80
	829	0	01	35
	827	0	13	41
Taliyara	1915	0	09	36
	1916	0	03	41
	1917	0	03	25
	1990	0	00	20
	1995	0	03	99
	1996	0	01	48
	2016	0	00	34
	2015	0	08	13
	2018	0	05	70
	2017	0	00	20
	2038	0	01	62
	2039	0	00	46
	2040	0	03	05
	2042	0	00	20

[No R-25011/32/2001 OR-1]

S CHANDRASEKHAR, Under Secy

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 4 सितम्बर, 2001

का.आ. 2363.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि महाराष्ट्र राज्य में पानेवाडी (मनमाड) संस्थापन से मध्यप्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को यह प्रतीत होता है कि ऐसी विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए ऐसी भूमि में जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन करना आवश्यक है;

अब केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, भारत के राजपत्र में, यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिनों के भीतर, उसमें उपयोग के या भूमि में पाइपलाइन बिछाने के लिए अधिकार के अर्जन के लिए लिखित रूप में श्री प्रल्हाद व्ही. कचरे, सक्षम प्राधिकारी, मुंबई मनमाड पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, पहली मंजिल, सेवा कॉम्प्लेक्स, गुरुद्वारा के सामने, मुंबई आगरा महामार्ग, धुलिया-424001 (महाराष्ट्र) को आक्षेप कर सकेगा;

अनुसूची

तहसील : धुलिया	जिला : धुलिया	राज्य : महाराष्ट्र
ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र
		हेक्टेयर आर चौंस मीटर
1. कुलथे	152/अ1	0 10 00
	152/अ2/2	0 10 00
	152/अ2/1	0 04 50
	152/2/1	0 04 50
	152/ब/1	0 48 00
	152/ब/2	0 16 00
	152/अ/2/2	0 04 30
	145	0 10 91
	कच्चा रास्ता	0 00 45
	144	0 48 59
	143	0 01 80
	कनोली नाला	0 04 42
	134/1	0 02 06

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र	हेक्टेयर	आर चौंस मीटर
	134/2		0	02 05
	138/ब/4		0	23 78
	138/ब/3		0	24 00
	138अ		0	33 11
	कच्चा रास्ता		0	00 74
	137/1		0	06 76
	137/2		0	52 45
	ओ.डो.आर.-102		0	00 78
	6/11		0	47 58
	नाला		0	01 82
	7/2/1		0	04 00
	7/2/2		0	04 50
	7/1-3		0	01 50
	7/1-2		0	10 00
	7/1		0	05 47
	नाला		0	01 21
	61		0	20 98
	60		0	00 22
	62/2		0	17 50
	62/4		0	17 50
	62/3		0	17 24
	64		0	30 73
2. मंडल	कच्चा रास्ता		0	00 53
	72/1	}	0	27 84
	72/2			
	73/1/1	}	0	33 85
	73/1/2			
	73/1/3			
	73/2			
	73/3/1	}	0	02 46
	73/3/2			
	73/3/3			
	नाला		0	02 46
	ग्राम रोड-124		0	00 42
	71/1	}	0	11 69
	74/2			
	74/3			
	74/4			
	74/5			
	कॅनाल		0	01 06
	66		0	44 22
	नाला		0	00 55
	84		0	28 13
	86		0	09 85

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र				
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर		
2. मंडल (क्रमशः)	85/1	}	0	21	60	3. बोरकुंड (क्रमशः)	210	0	12	47	
	85/2									214/1	
	नाला		0	01	19		214/2अ	}	0	07	56
	87/1	}	0	39	90		214/2ब				
	87/2						215/अ/1/1	0	18	42	
	87/3/1						215/अ/ब/1/1	0	06	70	
	83/अ	}	0	11	76		215/अ/1/2	0	18	42	
	83/ब						215/ब/1/2	0	06	70	
	92		0	30	53		215/अब/1/1	0	06	70	
	104		0	16	81		215/ब/1/फ	0	05	70	
	103		0	48	54		बोरी नदी	0	17	42	
	102/11/2		0	05	00	4. बोरकुंड (रतनपुरा)	251	0	18	00	
	102/11/1		0	05	00		247	0	20	16	
	102/10		0	06	50		246/1	0	01	00	
	102/8		0	14	50		246/2	0	10	80	
	102/7		0	10	99		बोरकुंड मंडल रोड	0	01	62	
	102/6/4		0	10	00		245/1अ	}	0	24	66
	102/5/3		0	03	00		245/1ब				
	102/6/2		0	02	00		245/2				
	112/1	}	0	76	19		282 भाग	0	31	86	
	112/2						राज्यमार्ग-15	0	04	32	
	112/3						281/2ब	}	0	16	38
	112/4						281/2क				
	113/1		0	32	34		281/2				
	ग्राम रोड-149		0	01	25		कच्चा रास्ता	0	01	80	
	116/1		0	20	00		285/2	0	50	76	
	116/2		0	12	60		286	0	04	86	
	116/3		0	06	88		नदी	0	11	70	
	116/4		0	06	88		614	0	22	50	
	116/5		0	06	88		615	0	12	60	
	118 भाग		0	28	81		612/3	}	0	12	24
	झोडगा बोरकुंड रोड		0	02	12		612/4				
	135		0	10	56		ग्राम रोड-155	0	02	70	
	नाला		0	04	73		617	0	26	46	
	134		0	33	04		619	0	15	12	
	नाला		0	00	51		607	0	13	75	
	120/1		0	03	82		606/1	}	0	50	40
	120/2		0	14	00		606/2				
	120/3		0	14	00		कच्चा रास्ता	0	00	90	
	121/1	}	0	02	05		603/1	}	0	07	20
	121/2						604				
3. बोरकुंड	कच्चा रास्ता		0	01	14		603/2				
	212		0	27	87						
	211		0	21	29						

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
4. बोरकुंड	ओ.डी.आर.-105	0	04	50	6. विंचुर बुद्रुख	80/2/अ-1	0	06	80
(रतनपुरा) क्रमशः	628	0	33	48		80/1अ/1	0	55	44
	नाला	0	02	52		नाला	0	00	40
	602/1	}	0	27		81	0	00	97
	602/2					82/1अ	0	05	50
	602/3					82/1ब	0	05	70
	नाला	0	03	78		82/2	0	11	21
	629	0	17	10		83	0	10	92
	580	0	25	56		कच्चा रास्ता	0	00	41
5. दोंदलाड	59/2	0	14	67		109/1/1	}	0	48
	65/1	0	12	79		109/1/2			
	65/2	0	10	50		109/1/3			
	65/3	0	10	50		109/1/4			
	कैनाल	0	00	51		97/1	0	01	04
	67/1	0	01	02		97/2अ	0	01	04
	67/2	0	01	86		97/2ब/1	0	02	08
	71/1	0	06	57		97/2ब/2	0	02	08
	71/2	0	06	56		कैनाल	0	00	74
	71/3	0	06	56		98/1/1	0	02	05
	71/4	0	06	56		98/1/2	0	02	06
	70/1	0	14	09		98/2/1	0	04	00
	70/2	0	14	09		98/2/2	0	04	00
	72/1	}	0	12		100/1	0	11	00
	72/2/1					100/2	0	11	17
	72/2/2					100/3	0	11	17
	72/2/3					101/1अ	0	02	75
	72/2/3					101/1ब/1	0	01	60
	72/2/4					101/1ब/2	0	01	40
	72/2/5					101/1क/1	0	01	60
	72/3					101/1/2	0	02	00
	72/4	}	0	00		101/1ड	0	02	75
	72/5					101/1अ	0	03	00
	72/6					नाला	0	00	75
	नाला	0	02	86		राज्यमार्ग 211	0	06	39
	92/1	0	14	96		102/1/1अ	0	09	90
	92/2	0	15	00		नाला	0	04	11
	95/1अ/1	}	0	00	7. शिरुड	कच्चा रास्ता	0	00	72
	95/1अ/2					791/1	}	0	13
	95/1ब					791/2			
	95/2					790/1	}	0	19
	95/3					790/2			
	95/4					790/3			
	93	0	13	65		790/4			
	94	0	01	17					
	91	0	19	05					

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
7. शिरुड (क्रमशः)	789	0	47	52	7. शिरुड (क्रमशः)	44/1			
	कच्चा रास्ता	0	00	97		44/2			
	788/1					44/3			
	788/1अ					44/4	0	01	89
	788/1क					44/5			
	788/2/2	0	27	70		44/6			
	805/1अ					46	0	29	85
	805/1ब					54/1			
	805/2अ	0	36	00		54/2	0	08	55
	805/2ब					54/3			
	नाला	0	02	70		ओ.डी.आर.-113	0	02	51
	नाला	0	01	92		53/1			
	नाला	0	01	85		53/2	0	01	36
	772/1					65/1अ			
	772/2	0	53	10		65/1ब	0	23	85
	821	0	09	18		65/2			
	नाला	0	02	70		66/1			
	कच्चा रास्ता	0	00	81		66/2	0	62	86
	822/1					66/3			
	822/2	0	15	48		नाला	0	01	80
	825/1					71/1			
	825/2					71/2ब	0	18	00
	825/3	0	01	80		68/1अ			
	825/4					68/1ब			
	825/5					68/2अ	0	24	00
	839/1					68/2ब			
	839/2	0	34	20		68/2क			
	ग्राम रोड-118	0	01	80		68/3			
	838/3	0	06	30		नाला	0	01	80
	840/1					70	0	18	00
	840/2	0	29	16		76	0	06	30
	840/3					78/1अ	0	09	36
	नाला	0	00	72		78/1ब			
	837	0	15	96		कच्चा रास्ता	0	01	44
	रेलमार्ग	0	06	02		906	0	16	20
	कच्चा रास्ता	0	01	48		77/1			
	842/1अ					77/2	0	28	80
	842/1ब	0	16	61		77/3			
	842/2					130/2			
	नाला	0	09	90		130/3	0	31	68
	55/1					130/4			
	55/2	0	35	28		कच्चा रास्ता	0	01	44
	नाला	0	00	65		नाला	0	01	59
					8. विसरणे	57/1			
						57/2/1			
						57/2-2	0	94	89
						57/3			

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र				
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर		
8. विसरणे (क्रमशः)	शिरुड विसरणे रोड	0	00	49	9. वेल्हाणे बुद्रुख	15/1	}	0	30	60	
	55	0	29	72	(क्रमशः)	15/2					
	49/1	}				14/1	}				
	49/2		0	04	72			14/2			
	48/1	}				14/3		0	14	40	
	48/2		0	07	75			14/4			
	48/3	}				नाला		0	04	68	
9. वेल्हाणे बुद्रुख	360		0	03	42		12/1	}	0	24	48
	326	0	68	40		12/2					
	324	0	00	20		नाला		0	04	32	
	327	0	00	20	10. तांडा कुंडाणे	44		0	22	86	
	नाला	0	01	44		कच्चा रास्ता		0	01	44	
	323/1	}	0	30	60	45		0	21	96	
	323/2					46		0	16	20	
	नाला		0	05	40	47/1	}	0	05	40	
	322/1	0	16	20		47/2					
	एम.डी.आर.-43	0	01	98		नाला		0	02	70	
	293/1/1	}				67/1	}				
	293/1/2		0	30	24			67/2	0	52	56
	294/1	}				67/3					
	294/2		0	40	68			67/4			
	294 भाग	}				68		0	15	84	
	303/2/1						नाला		0	02	52
	303/2/2	}	0	10	26		70		0	14	58
	303/2/3						नाला		0	00	36
	303/2/4	}					73		0	03	96
	नाला		0	02	70		72/2		0	07	56
	304/1	}	0	72	54		कैनाल		0	03	24
	304/2						74/1	}	0	13	50
	306/1	}					74/2				
	306/2		0	29	88		75	}	0	10	26
	306/3	}					75 भाग				
	306/4						नाला		0	01	44
	307		0	06	48		109/1/1	}			
	कच्चा रास्ता	0	01	26			109/1/2		0	15	30
	88 भाग	0	91	80			109/2				
	कच्चा रास्ता	0	00	97			109/1/3				
	कच्चा रास्ता	0	00	68			नाला		0	03	96
	नाला	0	03	60			108/1	}			
	74/1	}					108/2		0	03	60
	74/2		0	14	94			107		0	25
	74 पैकी	}					104		0	20	70
	ओ.डी.आर.-112		0	04	50		नाला		0	01	26
	23	0	14	40		103		0	11	88	

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
10 ताड़ा कुडाणे (क्रमशः)	102/1 } 102/2 }	0	20	52	12 बजीरखेडे (क्रमशः)	10	0	15	92
	नाला	0	01	98	13 चिंचखेडे	नाला	0	03	79
11 अंचाडे	84 भाग	0	07	89	48/1 } 48/2-1 }		0	38	96
	84 भाग	0	31	59	48/2ब }		0	17	04
	नाला	0	04	64	48/3 }		0	16	39
	80	0	20	88	49/1 }		0	25	47
	नाला	0	01	80	49/2 }		0	00	54
	एम डी आर -43	0	05	40	50/1 }		0	01	53
	81/1 }	0	09	36	50/2 }		0	56	16
	81/2 }				61/1 }		0	00	20
	77/1/1 }				61/2 }		0	30	43
	77/1/2 }	0	27	89	61/3 }		0	02	60
	77/2 }				60 }		0	37	21
	77/3 }				62/1अ }		0	00	72
	75	0	00	66	62/1ब }		0	18	18
	74/1 }	0	17	82	62/1घ }		0	34	20
	74/2 }				ओ डी.आर-110	0	02	60	
	76/1 }				63/1 }	0	37	21	
	76/2 }	0	20	16	63/4 }		0	00	72
	76/3 }				कच्चा रास्ता	0	00	72	
	76/4 }				64/1अ	0	18	18	
	71/1 }	0	07	34	69	0	34	20	
	71/2 }				67/1अ }		0	31	01
	70/1 }	0	23	94	67/1अ-2 }	0	31	01	
	70/2 }				नाला	0	04	60	
	66	0	62	10	14 आमदाड	22	0	03	92
	नाला	0	01	54	25/1-1अ				
	57	0	04	26	25/1-1ब/1अ				
	58	0	06	56	25/1-1ब/1ब				
	59	0	05	02	25/2अ-1अ	1	08	00	
	50	0	18	55	25/2ब				
	नाला	0	00	71	25/2अ/2				
	52	0	25	69	25/1-1क				
	31	0	24	01	25/3				
	कच्चा रास्ता	0	00	50	25/2अ/1ब				
	33/1 }	0	08	32	नाला	0	00	46	
	33/2 }				कच्चा रास्ता	0	03	30	
	30/1 }	0	01	02	15 भिरडाणे	75/1ब	0	14	04
	30/2 }								
	29	0	36	38					
12 बजीरखेडे	नाला	0	06	63					
	11	0	12	76					
	एम डी आर -42	0	00	76					

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र							
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर					
15 भिरडाणे— (क्रमशः)	78/1 78/2 नाला 81	}	0	36	05	18. नंदीळे खुर्द (क्रमशः)	52/1 52/2 52/3 53/1 53/2 53/3	}	0	05	75			
16 मुकटी	224/1 224/2 नाला 231 232/1 233/1		}	0	60	85	37 38 40/1-1 40/1-2 40/1-3अ 40/2		}	0	13	11		
	234/1अ 234/1क 234/1ड/1अ 234/2 260/1 260/2/2 260/2/3 260/2/4			}	0	68	66			39 29 30/1 30/2 30/3 30/4	}	0	22	56
	261 नाला नाला 262 ग्राम रोड-23				}	0	11			09		27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}	0
	43/1-1 43/1-2 43/1-3 43/1-4 43/1-5 43/2-1 43/2-2 43/2-3 43/2-4 43/2-5	}				0	12	96		40/1-3अ 40/2 39 29 30/1 30/2 30/3 30/4		}		0
	56/1 56/2 राष्ट्रीय महामार्ग-6 51/1/1 51/2 50 49/1 49/2 48		}			0	14	22	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	15	06	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	92	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	15	12	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	02	34	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	44	83	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	24	89	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	06	30	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	30	90	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	10	67	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	11	18	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5			}		0
			}			0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5	}				0
				}		0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5		}			0
					}	0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2 71/3 71/4/1 71/4/2 71/5				}	0
		}				0	03	47	27 25 24 नंदाळे रोड 23 71/1 71/2					

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र	
		हेक्टेयर	आर चौरस मीटर			हेक्टेयर	आर चौरस मीटर
19. नंगाव खुर्द	1/1/अ1	}	0 35 46	20. आंबोडे (जारी)	कच्चा रास्ता	0 00 46	
	1/अ2				नाला	0 01 63	
	1/अ3				474/1	}	0 44 47
	1/क2				474/2अ		
	1/क4				474/2ब		
	1/ब				474/2क	}	0 00 48
	1/क/1				नाला		
	1/ड/1				नाला	0 03 60	
	1/ड2/ब				475/1	}	0 38 53
	1/ड2/अ				475/2		
	1/क-3				484/1	}	0 00 40
	1/1अ2				484/2अ		
	1/1-अ3				484/2ब		
	7/1	}	0 55 80		नाला	0 00 40	
	7/2अ				476	0 69 62	
	7/3				नाला	0 01 42	
	6/1अ	}	0 00 99		395	0 15 59	
	6/1ब-1				नाला	0 09 36	
	6/1/क				396	0 40 04	
	6/1/ड2				397	0 21 98	
	6/1/ब2				398/1	}	0 43 62
	6/1ड1				398/2		
	6/2				398/3		
	6/3/1				398/4		
	नाला				398/5		
20. आंबोडे	441/1	}	0 14 04		399	0 16 93	
	441/2				400	0 25 25	
	441/3				ग्राम रोड-50	0 00 90	
	442		0 35 10		171/1	}	0 37 80
	449/1	}	0 46 30	21. सातरणे	171/2		
	449/2				ग्राम रोड	0 02 16	
	449/3/1				नाला	0 00 69	
	449/3/2				173	0 31 86	
	463		0 17 49		172/1	}	0 38 70
	462/1	}	0 24 65		172/2		
	462/2				नाला	0 00 59	
	462/3				174	0 37 43	
	नाला		0 04 32		217	0 02 70	
	466/1	}	0 53 77		216	0 20 88	
	466/2अ				कच्चा रास्ता	0 00 45	
	466/2ब				167	0 62 10	
					नाला	0 03 24	

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर	
21. सातारपे(क्रमशः)	ग्राम रोड-130	0	01	44	22 मोहाडो	162/1	}	0	47	70
	166	0	16	38	(प्र डांगरी)	162/2				
	153	0	38	64	(क्रमशः)	कच्चा रास्ता	0	00	72	
	नाला	0	00	26		नाला	0	04	50	
	154	0	11	88		130/अ-1/2	0	66	06	
	कच्चा रास्ता	0	00	94		कच्चा रास्ता	0	00	54	
	152	0	19	98		128	0	37	38	
	कच्चा रास्ता	0	00	47		129/1	}	0	09	90
	93	0	48	24		129/2				
	214/1अ	}				नाला	0	01	26	
	214/2		0	36	72	125	0	44	10	
	214/1ब					नाला	0	00	90	
	213/1	}	0	19	98	ग्राम रोड	0	01	80	
	213/2					80/1	}			
	ओ.डी.आर.-92	0	02	52	80/2/1	0		44	64	
	76/1	}	0	14	40	80/2/2				
	76/2					80/2/3				
	77		0	05	48	80/2/4				
	78/1		0	20	52	81/1	}	0	07	74
	78/2					81/2				
	नाला	0	01	44	83/1	}	0	08	46	
	64/1	}					83/2			
	64/2-1					78	0	12	16	
	64/2/1/1/1-1					84	0	02	88	
	64/2/2/1/2		0	44	82	नाला	0	00	54	
	64/2/2/2					85	0	35	10	
	64/2/2/1-1-2					86	0	24	48	
	64/2/2/1/1-2					कच्चा रास्ता	0	00	90	
	64/2-2/1-2					72/2	0	23	76	
	72	0	27	90	73	0	25	56		
	63	0	20	34	ग्राम रोड-43	0	03	09		
	कच्चा रास्ता	0	00	66	71	0	25	20		
22. मोहाडो (प्र डांगरी)	नाला	0	00	54	70/1	}	0	25	38	
	165/1	}	0	59	57		70/2			
	165/2					60/1	}	0	16	79
	नाला	0	00	54	60/2अ					
	166/1	}	0	37	77	60/2ब				
	166/2					59	0	03	71	
	कच्चा रास्ता	0	00	90						

[फा. नं. आर.-31015/13/2001-ओ आर-II]

[फा. नं. आर.-31015/13/2001-ओ आर-II]

हरीश कुमार, अवर सचिव

**MINISTRY OF PETROLEUM AND
NATURAL GAS**

New Delhi, the 4th September, 2001

S.O. 2363.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from the Panewadi (Manmad) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by the Bharat Petroleum Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying such extension pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the rights of user in the land described in the said Schedule;

Any person interested in the land described in the said Schedule may, within, twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Prahlad V. Kachare, Competent Authority, Mumbai Manmad Pipeline Extension Project, Bharat Petroleum Corporation Ltd., 1st Floor, Seva Complex, Opp. Gurudwara, Mumbai Agra Road, Dhule-424001 (Maharashtra).

SCHEDULE

Tehsil : Dhule District : Dhule State : Maharashtra

Name of Village	Survey/ Gat No.	Area		
		Hectars	Acre	Sq. Mts.
1. Kulthe	152/A1	0	10	00
	152/A2/2	0	10	00
	152/A2/1	0	04	50
	152/2/1	0	04	50
	152/B/1	0	48	00
	152/B/2	0	16	00
	152/A/2/2	0	04	30
	145	0	10	91
	Cart Track	0	00	45
	144	0	48	59
	143	0	01	80
	Kanoli Nalla	0	04	42
	134/1	0	02	06

Name of Village	Survey/ Gat No.	Area			
		Hectars	Are	Sq. Mts.	
1. Kulthe (Contd.)	134/2	0	02	05	
	138/B/4	0	23	78	
	138/B/3	0	24	00	
	138A	0	33	11	
	Cart Track	0	00	74	
	137/1	0	06	76	
	137/2	0	52	45	
	Road ODR-102	0	00	78	
	6/11	0	47	58	
	Drain	0	01	82	
	7/2/1	0	04	00	
	7/2/2	0	04	50	
	7/1-3	0	01	50	
	7/1-2	0	10	00	
	7/1	0	05	47	
	Drain	0	01	21	
	61	0	20	98	
	60	0	00	22	
	62/2	0	17	50	
	62/4	0	17	50	
	62/3	0	17	24	
	64	0	30	73	
2. Mandal	Cart Track	0	00	53	
	72/1	}	0	27	84
	72/2				
	73/1/1	}	0	33	85
	73/1/2				
	73/1/3				
	73/2				
	73/3/1				
	73/3/2	}	0	02	46
	73/3/3				
	Drain	0	00	42	
	Road, VR-124	0	00	42	
	74/1	}	0	11	69
	74/2				
	74/3				
	74/4				
	74/5				
	Canal	0	01	06	
	66	0	44	22	
	Drain	0	00	55	

Name of Village Survey/ Gat No.	Area			Name of Village Survey/ Gat No.	Area			
	Hectars	Arc	Sq Mts.		Hectars	Arc	Sq. Mts.	
2. Mandal (contd.) 84	0	28	13	2. Mandal (contd.) 121/1	}	0	02	05
86	0	09	85	121/2				
85/1 } 85/2 }	0	21	60	3. Borkund Cart Track		0	01	14
Drain	0	01	19	212		0	27	87
87/1 } 87/2 }	0	39	90	211		0	21	29
87/3/1 }				210		0	12	47
83/A } 83/B }	0	11	76	214/1	}	0	07	56
92	0	30	53	214/2A				
104	0	16	81	214/2B				
103	0	48	54	215/A/1/1		0	18	42
102/11/2	0	05	00	215/A/B/1/1		0	06	70
102/11/1	0	05	00	215/A/1/2		0	18	42
102/10	0	06	50	215/B/1/2		0	06	70
102/8	0	14	50	215/AB/1/1		0	06	70
102/7	0	10	99	215/B/1F		0	05	70
102/6/4	0	10	00	Bori River		0	17	42
102/5/3	0	03	00	4. Borkund 251		0	18	00
102/6/2	0	02	00	(Ratanpura) 247		0	20	16
112/1 } 112/2 }	0	76	19	246/1		0	01	00
112/3 }				246/2		0	10	80
112/4 }				Road		0	01	62
113/1				245/1A	}	0	24	66
Road VR-149	0	01	25	245/1B				
116/1	0	20	00	245/2				
116/2	0	12	60	282 Pt.		0	31	86
116/3	0	06	88	Road, SH-15		0	04	32
116/4	0	06	88	281/2B	}	0	16	38
116/5	0	06	88	281/2C				
118 Pt	0	28	81	281/2				
Zodga Borkund	0	02	12	Cart Track		0	01	80
Road.				285/2		0	50	76
135	0	10	56	286		0	04	86
Drain	0	04	73	River		0	11	70
134	0	33	04	614		0	22	50
Drain	0	00	51	615		0	12	60
120/1	0	03	82	612/3	}	0	12	24
120/2	0	14	00	612/4				
120/3	0	14	00	Road, VR-155		0	02	70
				617		0	26	46
				619		0	15	12
				607		0	13	75
				606/1		0	50	40

Name of Village	Survey/ Gat No.	Area			Name of Village	Survey/ Gat No.	Area		
		Hectars	Are	Sq. Mts.			Hectars	Are	Sq. Mts.
4. Borkund	606/2	0	50	40	5. Dondvad	95/1A/1			
(Ratanpura)	Cart Track	0	00	90	(Contd.)	95/1A/2			
(Contd.)	603/1					95/1B	0	00	14
	604	0	07	20		95/2			
	603/2					95/3			
	Road, ODR-105	0	04	50		95/4			
	628	0	33	48		93	0	13	65
	Drain	0	02	52		94	0	01	17
	602/1					91	0	19	05
	602/2	0	27	00	6. Vinchur	80/2/A-1	0	06	80
	602/3				Budruk	80/1A/1	0	55	44
	Drain	0	03	78		Drain	0	00	40
	629	0	17	10		81	0	00	97
	580	0	25	56		82/1A	0	05	50
5. Dondvad	59/2	0	14	67		82/1B	0	05	70
	65/1	0	12	79		82/2	0	11	21
	65/2	0	10	50		83	0	10	92
	65/3	0	10	50		Cart Track	0	00	41
	Canal	0	00	51		109/1/1			
	67/1	0	01	02		109/1/2			
	67/2	0	01	86		109/1/3	0	48	35
	71/1	0	06	57		109/1/4			
	71/2	0	06	56		97/1	0	01	04
	71/3	0	06	56		97/2A	0	01	04
	71/4	0	06	56		97/2B/1	0	02	08
	70/1	0	14	09		97/2B/2	0	02	08
	70/2	0	14	09		Canal	0	00	74
	72/1					98/1/1	0	02	05
	72/2/1					98/1/2	0	02	06
	72/2/2					98/2/1	0	04	00
	72/2/3					98/2/2	0	04	00
	72/2/3					100/1	0	11	00
	72/2/4	0	12	83		100/2	0	11	17
	72/2/5					100/3	0	11	17
	72/3					101/1A	0	02	75
	72/4					101/1B/1	0	01	60
	72/5					101/1B/2	0	01	40
	72/6					101/1C/1	0	01	60
	Drain	0	02	86		101/1/2	0	02	00
	92/1	0	14	96		101/1D	0	02	75
	92/2	0	15	00		101/1A	0	03	00
						Drain	0	00	75

Name of Village	Survey/ Gat No.	Area			Name of Village	Survey/ Gat No.	Area			
		Hectars	Acre	Sq. Mts.			Hectars	Acre	Sq. Mts.	
6. Vinchur	S.H. 211	0	06	39	7. Shirud- <i>contd.</i>	Drain	0	00	77	
Bk (contd.)	102/1/1A	0	09	90		837	0	15	90	
	Drain	0	04	11		Railway	0	06	02	
7. Shirud	Cart Track	0	00	72		Cart Track	0	01	48	
	791/1	}	13	50		842/1A	}	0	16	61
	791/2					842/1B				
	790/1	}	19	44		842/2	}	0	09	90
	790/2					Drain				
	790/3	}	0	35		55/1	}	0	00	65
	790/4					55/2				
	789	0	47	52		Drain	0	00	65	
	Cart Track	0	00	97		44/1	}	0	01	89
	788/1	}	27	70		44/2				
	788/1B					44/3	}	0	08	55
	788/1C	}				44/4				
	788/2/2					44/5	}	0	24	30
	805/1A	}	36	00		44/6				
	805/1B					46	0	24	30	
	805/2A	}	0	02		54/1	}	0	01	80
	805/2B					54/2				
	Drain	0	02	70		54/3	}	0	02	41
	Drain	0	01	92		Road ODR-113				
	Drain	0	01	85		53/1	}	0	01	36
	772/1	}	53	10		53/2				
	772/2					65/1A	}	0	23	83
	821	0	03	18		65/1B				
	Drain	0	02	70		65/2	}	0	62	86
	Cart Track	0	00	81		66/1				
	822/1	}	15	48		66/2	}	0	01	80
	822/2					66/3				
	825/1	}	01	80		Drain	0	01	80	
	825/2					71/1	}	0	18	00
	825/3	}	0	34		71/2B				
	825/4					68/1A	}	0	24	00
	825/5	}	0	01		68/1B				
	839/1					68/2A	}	0	01	80
	839/2	}	0	06		68/2B				
	Road VR-118	0	01	80		68/2C	}	0	06	30
	838/3	0	06	30		68/3				
	840/1	}	29	16		Drain	0	01	80	
	840/2					70	0	18	00	
	840/3	}				76	0	06	30	

Name of Village	Survey/ Gat No.	Area			Name of Village	Survey/ Gat No.	Area							
		Hectars	Arc	Sq. Mts.			Hectars	Arc	Sq. Mts.					
7. Shirud (Cont.)	78/1A	}	0	09	36	9. Velhane Bk	303/2/4	0	10	26				
	78/1B					(Contd.)	Drain	0	02	70				
	Cart Track	0	01	44	304/1	}	0	72	54					
	906	0	16	20	304/2		306/1	}	0	29	88			
	77/1	}	0	28	80	306/2	306/3		306/4					
	77/2					307	0		06	48				
	77/3					Cart Track	0		01	26				
	130/2	}	0	31	68	88 Pt.	0	91	80					
	130/3					Cart Track	0	00	97					
	130/4	Cart Track	0	01	44	Cart Track	0	00	68					
8. Visrane	Drain	0	01	59	Drain	0	03	60						
	57/1	}	0	94	89	74/1	}	0	14	94				
	57/2/1					74/2								
	57/2-2					74 Pt.								
	57/3					Road ODR-112	0	04	50					
	Shirud Visrane	0	00	49	23	0	14	40						
	Road	0	29	72	15/1	}	0	30	60					
	55	0	04	72	15/2									
	49/1	}	0	07	75	14/1	}	0	14	40				
	49/2					14/2								
	48/1	}	0	03	42	14/3					}	0	04	68
	48/2					12/1								
	48/3	0	00	20	12/2	}	0	24	48					
	9. Velhane Bk.	360	0	01	44					Drain	0	04	32	
326		0	68	40	10. Tanda	44	0	22	86					
324		0	00	20	Kundane	Cart Track	0	01	44					
327		0	00	20	45	0	21	96						
Drain		0	01	44	46	0	16	20						
323/1		}	0	30	60	47/1	}	0	05	40				
323/2						47/2								
Drain		0	05	40	Drain	0	02	70						
322/1		0	16	20	67/1	}	0	52	56					
Road, MDR-43		0	01	98	67/2									
293/1/1		}	0	30	24					67/3				
293/1/2										67/4				
294/1		}	0	40	68	68	0	15	84					
294/2						Drain	0	02	52					
294 Pt.														
303/2/1		}	0	10	26									
303/2/2														
303/2/3														

Name of Village	Survey/ Gat No.	Area			Name of Village	Survey/ Gat No.	Area			
		Hectars	Acre	Sq. Mts.			Hectars	Acre	Sq. Mts.	
10. Tanda Kundane- contd.	70	0	14	58	11. Anchade (Contd.)	71/1	}	0	07	34
	Drain	0	00	36		71/2		}	0	23
	73	0	03	96	70/1	}	0		62	10
	72/2	0	07	56	70/2		66	0	01	54
	Canal	0	03	24	57	0	04	26		
	74/1	}	0	13	50	58	0	06	56	
	74/2		59	0	05	02				
	75	}	0	10	26	50	0	18	55	
	75 Pt		Drain	0	00	71				
	Drain	0	01	44	52	0	25	69		
	109/1/1	}	0	15	30	31	0	24	01	
	109/1/2					Car Track	0	00	50	
	109/2					33/1	}	0	08	32
	109/1/3					33/2		0	01	02
	Drain	0	03	96	30/2	}	0	36	38	
	108/1	}	0	03	60		29	0	06	63
	108/2		0	25	20	11	0	12	76	
	107	0	20	70	Road MDR-42	0	00	76		
	104	0	01	26	10	0	15	92		
	Drain	0	11	88	13. Chinchkhede	Drain	0	03	79	
	103	0	20	52		48/1	}	0	38	96
	102/1	}	0	01	98	48/2-1				
	102/1					84 Pt.				
Drain	0	31	59	48/3	}	0				
84 Pt.	0	04	64	49/1			}	0	16	39
Drain	0	20	88	49/2	50/1	}				
80	0	01	80	50/2	51		0	00	54	
Drain	0	05	40	61/1	}	0	56	16		
Road MDR-43	0	09	36	61/2						
81/1	}	0	27	89					61/3	0
81/2					60	0	30	43		
77/1/1	}	0	20	16	62/1A	}	0	02	60	
77/1/2					62/1B					
77/2					75	0	00	66	Road ODR-110	
77/3	}	0	17	82						
76/1					74/1	0	00	66		
76/2	}	0	20	16						
76/3					74/2	0	00	66		
76/4	}	0	20	16						
					76/1	0	00	66		
	}	0	20	16						
					76/2	0	00	66		
	}	0	20	16						
					76/3	0	00	66		
	}	0	20	16						
					76/4	0	00	66		

Name of Village	Survey/ Gat No	Area			Name of Village	Survey/ Gat No	Area				
		Hectars	Are	Sq Mts			Hectars	Are	Sq Mts		
13 Chm. Ikhele Drain (Contd)	63/1	0	37	21	16 Mukti	Drain	0	15	22		
	63/4				(Contd)	262	0	15	12		
	Cart Track	0	00	72		Road, VR-23	0	02	34		
	64/1A	0	18	18	17 Kasvihar	43/1-1	0	44	83		
	69	0	34	20		43/1-2					
67/1A	0	31	01	43/1-3							
67/1A-2				43/1-4							
Drain	0	04	60	43/1-5							
14 Andad	22	0	03	92	43/2-1	0				24	89
	25/1-1A	1	08	00	43/2-2						
	25/1-1B/1A				43/2-3						
	25/1-1B/1B				43/2-4						
	25/2A-1A				43/2-5						
	25/2B				18 Nandale Khurd	56/1	0	24	89		
	25/2A/2	56/2									
	25/1-1C	NH-6	0	06		30					
	25/3	51/1/1	0	30		90					
	25/2A/1B	51/2									
	Drain	0	00	46	50	0	10	67			
	Cart Track	0	03	30	49/1	0	11	18			
	15 Bhirdhane	75/1B	0	14	04				49/2		
		78/1	0	36	05	48	0	03	47		
		78/2				52/1	0	05	75		
Drain		0	00	85	52/2						
81		0	60	76	52/3						
16 Mukti	224/1	0	68	66	53/1	0	13	11			
	224/2				53/2						
	Drain	0	02	23	53/3						
	231	0	11	09	37	0	22	56			
	232/1	0	12	96	38	0	19	30			
	233/1	0	14	22	40/1-1	0	16	20			
	234/1A	0	39	99	40/1-2						
	234/1C				40/1-3A						
	234/1D/1A				40/2						
	234/2	0	34	56	39	0	01	64			
	260/1				29	0	35	01			
	260/2/2				30/1	0	08	97			
	260/2/3				30/2						
	260/2/4				30/3						
	261	0	12	06	30/4	0	18	53			
	Drain	0	03	92	27						
					25	0	20	42			

Name of Village	Survey/ Gat No.	Area			Name of Village	Survey/ Gat No.	Arca			
		Hectars	Are	Sq. Mts.			Hectars	Are	Sq. Mts.	
18 Nandale	24	0	12	96		6/1/D2	}	0	00	99
Khurd-contd.	N.H. 6 Road	0	03	96		6/1/B2				
	23	0	07	74		6/1D1				
	71/1	}	0	21	}	6/2				
	71/2					6/3/1				
	71/3					Drain	0	01	80	
	71/4/1					}	0	14	04	
	71/4/2	441/1								
	71/5	441/2								
	72/1	}	0	56	}	441/3	0	35	10	
	72/2/1					442				
	Cart Track	0	00	74		449/1	}	0	46	30
	77	0	32	22		449/2				
	82/1	}	0	28	}	449/3/1				
	82/2					449/3/2	0	17	49	
	83/1	}	0	45	}	463				
	83/2					462/1	0	24	65	
	83/3/1					462/2				
	83/3/2					462/3	0	04	32	
	83/3/4	Drain								
	Road, VR-75	0	00	63		466/1	}	0	53	77
	Kanheri River	0	08	28		466/2A				
	84	0	19	80		466/2B				
19. Nagaon	1/1/A1	}	0	35	}	Car Track	0	00	46	
Khurd	1/A2					Drain	0	01	63	
	1//A3					474/1	}	0	44	47
	1/C2					474/2A				
	1/C4					474/2B				
	1/B					474/2C	Drain	0	00	48
	1/C/1					Drain	0	03	60	
	1/D/1					475/1	}	0	38	53
	1/D2/B					475/2				
	1/D2/A					484/1	}	0	00	40
	1/C-3					484/2A				
	1/1A2	484/2B								
	1/1-A3	Drain	0	00	40					
	7/1	476	0	69	62					
	7/2A	Drain	0	01	42					
	7/3	395	0	15	59					
	6/1A	Drain	0	09	36					
	6/1B-1	396	0	40	04					
	6/1/C	397	0	21	98					

Name of Village	Survey/ Gat No.	Area		
		Hectars	Are	Sq. Mts.
20. Ambode- <i>contd.</i>	398/1	0	43	62
	398/2			
	398/3			
	398/4			
	398/5			
	399	0	16	93
	400	0	25	25
	Road, VR-50	0	00	90
21. Satarne	171/1	0	37	80
	171/2			
	Road	0	02	16
	Drain	0	00	69
	173	0	31	86
	172/1	0	38	70
	172/2			
	Drain	0	00	59
	174	0	37	43
	217	0	02	70
	216	0	20	88
	Cart Track	0	00	45
	167	0	62	10
	Drain	0	03	24
	Road, VR-130	0	01	44
	166	0	16	38
	153	0	38	64
	Drain	0	00	26
	154	0	11	88
	Cart Track	0	00	94
	152	0	19	98
	Cart Track	0	00	47
	93	0	48	24
	214/1A	0	36	72
	214/2			
	214/1B	0	19	98
	213/1			
	213/2	0	02	52
	Road, ODR-92			
	76/1	0	14	40
	76/2			
	77	0	05	48
	78/1	0	20	52
	78/2			
	Drain	0	01	44
	64/1	0	44	82
	64/2-1			
	64/2/1/1/1-1			
	64/2/2/1/2			
	64/2/2/2			
	64/2/2/1-1-2			
	64/2/2/1/1-2			
	64/2-2/1-2	0	27	90
	72			
	63	0	20	34

Name of Village	Survey/ Gat No.	Area		
		Hectars	Are	Sq. Mts.
21. Satarne- <i>contd</i>	Cart Track	0	00	66
22. Mohadi (Pra Dangari)	Drain	0	00	54
	165/1	0	59	57
	165/2			
	Drain	0	00	54
	166/1	0	37	77
	166/2			
	Cart Track	0	00	90
	162/1	0	47	70
	162/2			
	Cart Track	0	00	72
	Drain	0	04	50
	130/A-1/2	0	66	06
	Cart Track	0	00	54
	128	0	37	38
	129/1	0	09	90
	129/2			
	Drain	0	01	26
	125	0	44	10
	Drain	0	00	90
	Mohadi Road	0	01	80
	80/1	0	44	64
	80/2/1			
	80/2/2			
	80/2/3			
	80/2/4	0	07	74
	81/1			
	81/2	0	08	46
	83/1			
	83/2	0	12	16
	78			
	84	0	02	88
	Drain	0	00	54
	85	0	35	10
	86	0	24	48
	Cart Track	0	00	90
	72/2	0	23	76
	73	0	25	56
	Road, VR-43	0	03	09
	71	0	25	20
	70/1	0	25	38
	70/2			
	60/1	0	16	79
	60/2A			
	60/2B			
	59	0	03	71

[F.No. R-31015/13/2001-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली 4 सितम्बर, 2001

का. आ. 2364.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि महाराष्ट्र राज्य में पानेवाडी (मनमाड) टर्मिनल से मध्यप्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और यह प्रतीत होता है कि ऐसी विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए इससे संलग्न अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन करना आवश्यक है;

अतः अब केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में, यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिनों के भीतर, उनमें उपयोग के अधिकार का अर्जन या भूमि के नीचे पाइपलाइन बिछाने के संबंध में आपत्ति लिखित रूप में श्री प्रल्हाद व्ही, कचरे, सक्षम प्राधिकारी, मुंबई मनमाड पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, को पहली मंजिल, आशापुरी प्लाज़ा, रावलगांव नाका, मालेगाव कैम्प, मालेगाव 423105 (महाराष्ट्र) पर कैम्प कार्यालय पर कर सकेगा;

अनुसूची

तहसील : मालेगांव

जिला : नासिक

राज्य :

महाराष्ट्र

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर
1 चोंदी	19	0	24	94
	20/2	0	12	71
	20/3	0	12	72
	20/4	0	12	71
	नाला	0	02	97
	50अ	0	66	09
	51/2	0	33	38
	52	0	13	44
	नाला	0	05	85
	54	0	17	28
	55	0	22	71
	75/1	0	25	20
	75/2/2	0	20	61
	74	0	36	85
	100	0	42	46
	99/1	0	46	26
	102	0	04	14

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर
2. जलगाव (निं)	482	0	33	26
	483	0	34	30
	476/1	0	11	82
	476/2	0	11	82
	452	0	24	12
	ग्राम रास्ता-80	0	01	98
	384	0	16	95
	451	0	05	36
	450	0	12	95
	448	0	13	12
	443	0	14	08
	नाला	0	03	24
	431/1	0	09	00
	431/2	0	08	99
	430/2	0	07	55
	429	0	08	62
	428/1	0	03	12
	428/2	0	03	13
	428/3	0	03	13
	428/4	0	03	13
	484	0	12	93
	427	0	12	93
	426	0	00	51
	425/1	0	15	22
	425/2	0	15	22
	416/1	}	0	41
	416/2			
	ग्राम रास्ता-70	0	02	88
	417	0	24	91
	457	0	00	57
	418	0	11	67
	387	0	24	97
	388	0	32	60
	386	0	03	68
	ओ.डी.आर.-24	0	01	80
	389	0	00	36
	380/1	0	18	00
	380/2	0	08	43
	379/1	0	07	01
	379/2	0	07	00
	378	0	12	99
	377/1	0	09	12
	377/2	0	09	12

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
3. कालेवाडी	नाला	0	02	34	4. घोड़े गांव- (जारी)	89/3	0	06	15
	37	0	00	30		89/4	0	06	15
	36	0	12	39		89/5	0	06	15
	35/1	0	07	41		सड़क	0	00	60
	35/2	0	07	40		71	0	43	65
	35/3	0	06	00		69 अ 1	0	12	24
	32	0	11	20		69 अ 2	0	12	24
	सड़क	0	01	32		69 अ 3	0	12	24
	31	0	08	11		69 अ 4	0	12	24
	28	0	33	43		69 अ 5	0	12	24
	कच्चा रास्ता	0	00	61	5. व-हाणे	78/2	0	18	90
	कच्चा रास्ता	0	00	59		78/3	0	18	90
	कच्चा रास्ता	0	00	90		77	0	24	48
	186	0	32	89		नाला	0	02	31
	1	0	08	06		76/1	0	12	70
	183/1	0	32	46		76/2	0	25	32
	182/1	0	09	06		76/3	0	12	62
	182/2	0	09	06		79/1	0	15	13
	182/3	0	09	06	6. मेहुणे	202	0	16	76
	178/3	0	32	12		52	0	34	66
	178/5	0	24	06		53/1अ	0	5	60
	169	0	72	79		53/1ब	0	5	60
	सुखी नदी	0	11	06		53/2	0	11	55
4. घोड़े गांव	ग्राम रास्ता-69	0	02	33		54/2	0	17	54
	25/1	0	13	20		ग्राम रास्ता-117	0	02	34
	25/3	0	28	15		55/1	0	23	29
	32/2	0	12	45		55/3	0	08	50
	32/4	0	12	45		56/1/1	0	05	20
	32/5	0	12	45		56/1/2	0	04	20
	39	0	09	64		77	0	30	47
	रोड	0	00	48		76	0	20	51
	40	0	24	60		75	0	13	13
	41	0	20	68		72	0	20	15
	42	0	18	53		71	0	24	67
	44	0	04	67		राज्य मार्ग-16	0	02	44
	47	0	15	84		73	0	00	03
	50	0	19	69		106/1/3	0	10	92
	नाला	0	04	39		107/1	0	01	88
	89/1	0	06	15		108	0	32	11
	89/2	0	06	15		109	0	15	98

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
6. मेहुणे (जारी)	110	0	20	84	7 चंदनपुरी-(जारी) नाला		0	02	81
	111/1	0	21	26		191	0	00	41
	111/2	0	21	27		191/अ	0	03	37
	124/1अ/1	0	08	00		191/2			
	124/1अ/2	0	08	01		188/1	0	10	30
	216/1	0	09	27		188/3	0	10	30
	215	0	15	40		185	0	21	24
	214	0	12	98		कच्चा रास्ता	0	00	90
	213/1	0	00	88		186	0	05	79
	212	0	12	21		एम.डी आर.-23	0	05	99
	210/2	0	14	22		183	0	0	16
	210/1	0	17	48		180/2/2	0	25	62
	209	0	14	96		कच्चा रास्ता	0	01	08
	208/1	0	06	61		176	0	16	25
	208/2	0	15	60		178	0	20	06
	208/3	0	05	04		179	0	01	20
	203	0	10	65		175	0	17	00
	204	0	13	39		173	0	13	44
	205	0	16	79		172	0	22	08
	206	0	06	67		171	0	00	97
	ग्राम रास्ता-148	0	02	35		154	0	11	37
	188	0	13	48		158	0	12	82
	सड़क ग्राम रास्ता-148	0	02	75		156	0	18	00
	188 भाग	0	03	78		नाला	0	01	15
	328	0	04	77		150	0	32	87
	329	0	18	69		148	0	00	47
	330	0	16	04		कच्चा रास्ता	0	00	90
	331	0	17	42		136/4	0	21	63
	332	0	11	55		132	0	09	49
	343	0	31	81		133	0	09	85
	342	0	19	05		121	0	56	65
	338	0	08	72		119/1	0	17	50
	339	0	03	46		119/2	0	08	20
	337	0	07	76		119/3	0	08	20
	340	0	24	44		120/1	0	08	55
	नाला	0	03	39		89/1	0	00	52
	कच्चा रास्ता	0	00	49		89/2	0	00	53
7 चंदनपुरी	194	0	08	41		89/3	0	00	52
	193	0	36	83		90	0	30	05
	192	0	23	46		88	0	45	62
						कच्चा रास्ता	0	00	95

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर	
8 येसगाव	124/1	0	06	73		64	0	10	30	
	131/1	0	18	20		65	0	01	26	
	131/2	0	18	19		92	0	01	34	
	132/1	0	10	09		91	0	10	40	
	132/2	0	10	08		90	0	05	23	
	133/1	0	30	37		89	0	05	89	
	133/2	0	15	18		सङ्क	0	00	42	
	133/3	0	15	18		88	0	00	72	
	एम.डी.आर.-20	0	03	98		106	0	19	26	
	134	0	19	48		109अ	0	06	54	
	135	0	20	18		109ब	0	03	00	
	136/1	0	09	54		117	0	14	04	
	136/2	0	09	54		नाला	0	11	51	
	136/3	0	09	54		142/1	0	13	50	
	136/4	0	09	54		142/2	0	12	78	
	136/5	0	09	54		142/3	0	19	00	
	136/6	0	09	51		143	0	14	50	
	गिरणा नदी	0	57	72		147	0	12	60	
9 मालधे	2	1	25	82		246	0	17	64	
	नाला	0	01	08		245	0	06	66	
	109/अ-1	}	0	00	91	243	0	23	40	
	109/अ-2/1				242/1, 242/2 242/3	}	0	07	74	
	108	0	27	90						241
	107	0	19	30		नाला	0	06	30	
	106/अ	0	26	30		254	0	00	21	
	106/ब	0	15	28		255	0	32	94	
	104	0	03	33		नाला	0	03	02	
						256	0	04	50	
10 सखंदगाव	42	0	23	07		259	0	05	04	
	43/1	0	10	50		260/1	0	21	60	
	43/2	0	10	50		260/2	0	21	60	
	43/3	0	14	48		260/3	0	21	60	
	44	0	20	70		264	0	12	60	
	ग्राम रोस्ता-3	0	02	35		263	0	07	92	
	52अ	0	22	65		262	0	32	40	
	53	0	02	61						
	51	0	02	34	11. सायने बुहुख	239	0	44	26	
	50	0	17	10		240	0	00	54	
	61	0	04	02		238	0	05	40	
	62	0	28	26		197	0	49	78	
	63	0	20	66		196	0	12	36	

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
12. भालहणगाव	ग्राम रास्ता-102	0	04	06		101/3	0	07	00
	कैनाल	0	01	38		100	0	19	87
	195	0	33	82		99	0	17	14
	194/1	0	10	31		कैनाल	0	01	62
	194/3	0	10	31		96	0	36	52
	188	0	10	08		95	0	13	32
	189	0	32	22		91/अ	0	27	17
	171/1	0	13	50		91/ब	0	26	00
	171/2	0	13	50		नाला	0	01	03
	171/3	0	13	50		90/1	0	10	00
	171/4	0	05	50		90/2	0	07	00
	170	0	41	94		90/3	0	10	00
	169/1	0	15	73		90/4	0	03	00
	168/1	0	09	60		90/5	0	07	00
	168/2	0	06	90		90/6	0	04	26
	नाला	0	00	72		83	0	31	32
	158	0	01	71		85	0	30	96
	नाला	0	02	64		ग्राम रास्ता-220	0	02	16
	157	0	10	54	13. चिखल ओहोल	434	0	03	15
	नाला	0	01	05		कैनाल	0	02	34
	278/1	0	14	28		राज्य मार्ग—19	0	05	76
	278/2	0	14	28		433/1	0	12	00
	277	0	10	66		433/2	0	12	00
	279	0	19	19		433/3	0	18	94
	कच्चा रास्ता	0	00	90		नाला	0	01	89
	कैनाल	0	00	80		524	0	12	40
	283	0	23	58		523	0	12	96
	284	0	05	40		435	0	11	88
	30 अ/5	0	14	22		436	0	53	00
	30 अ/6	0	07	38		438	0	12	77
	297/1/1	0	16	28		471/1	0	11	88
	297/1/2	0	16	28		471/2	0	11	88
	ग्राम रास्ता-154	0	01	94		469	0	19	36
	30अ/1	0	74	70		467	0	50	00
	कैनाल	0	01	02		ग्राम रास्ता-208	0	01	17
	23	0	00	33		465	0	24	84
	24	0	18	69		463	0	03	81
	25	0	18	72		464	0	07	53
	101/1	0	06	99		483 अ	0	14	79
	101/2	0	07	00		483 ब	0	14	78

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
14 नाले	484 अ	0	10	00		36/1	0	18	00
	484 ब	0	13	16		36/2/2	0	08	34
	485/1	0	06	72		36/2/1	0	18	00
	486/1	0	19	26		ग्राम रास्ता-156	0	01	10
	486/2	0	19	97		40/1	0	07	13
	ग्राम रास्ता-207	0	00	72		40/2	0	07	13
	401/1	0	04	54		39/1	0	05	40
	401/2	0	04	53		39/2	0	04	45
	400/1	0	08	43		47	0	38	45
	400/2	0	08	43		48/1	0	07	75
	375	0	30	39		48/2	0	07	75
	374/1	0	08	10		48/3	0	07	75
	374/2	0	08	10		48/4	0	07	74
	374/3	0	08	10		सड़क	0	02	16
	374/4	0	08	10	15. देवरपाडे	219/1	0	02	52
	371/1/1/1	0	01	54		218/1, 2 और			
	371/2	0	04	32		सभी मार्ग	0	46	27
	कच्चा रास्ता	0	01	44		198	0	21	92
	372	0	33	93		197/1अ	0	14	00
	371/1/2	0	19	61		197/2	0	02	00
	175/1अ	0	08	56		197/3	0	02	00
	175/1ब	0	08	00		197/4	0	05	00
	175/1ब/2	0	08	00		197/5	0	04	39
	175/2	0	08	56		196	0	02	36
	11/1	0	30	00		199	0	01	27
	11/2					नाला	0	00	93
	11/2/2					200	0	38	38
	11/2/3	0	32	09		189/अ1	0	30	68
	11/2/4					189/अ2	0	10	00
	11/2/5					203	0	41	94
	सड़क	0	00	65		नाला	0	02	96
	12	0	28	88		कनोली नदी	0	11	80
	13	0	18	81		186/1	0	14	00
	16	0	21	28		186/2	0	14	00
	15	0	15	12		186/3	0	28	16
	26	0	07	20		187	0	03	43
	27	0	05	62		184/4	0	06	20
	29	0	34	62		184/1	0	06	20
	28	0	11	34		184/2	0	12	40
	35	0	05	94		184/3	0	02	20

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र -		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
16. भिलकोट	184/3/1	0	04	50	17. गुगलवाड	कच्चा रास्ता	0	00	34
	184/3/2	0	04	50		118	0	05	40
	183	0	18	60		119अ	0	17	00
	174/1	0	18	49		119/ब	0	08	56
	174/2	0	18	50		120	0	00	41
	175	0	35	06		139	0	08	82
	168/1	0	09	00		123	0	30	24
	168/2	0	04	88		कच्चा रास्ता	0	01	06
	168/3	0	09	00		नाला	0	02	16
	169	0	07	02		128	0	15	54
	166	0	11	50		138/2	0	01	91
	165	0	10	51		135	0	14	13
	164	0	75	42		134	0	19	63
	नाला	0	00	46		133	0	34	22
	नाला	0	04	55		ओ.डी.आर.-29	0	02	22
	45/1अ	0	19	90		150/1	0	03	92
	45/1ब	0	08	00		155	0	17	22
	नाला	0	02	25		152/1	0	07	00
	सड़क	0	01	44		152/2	0	07	00
	44/1	0	17	12		152/3	0	15	00
	44/2	0	18	00		152/4	0	14	24
	43	0	08	80		153/1	0	02	27
	81/अ	0	15	90		153/2	0	02	27
	81/ब	0	05	04		153/3	0	07	00
	82	0	05	38		37	0	12	28
	86	0	07	87		34	0	19	38
	85	0	13	68		35	0	22	77
	84	0	00	81		299	0	00	21
	87	0	12	50		300	0	06	93
	88	0	07	49		303/1	0	05	60
	98	0	31	21		303/3	0	08	00
	99	0	12	27		302/1	0	13	05
	97	0	18	97		302/2	0	13	06
	92/1	0	09	69		308	0	17	10
	92/2	0	08	00		309/1	0	07	87
	सड़क	0	00	72		309/2	0	07	88
	95	0	29	67		292	0	12	60
	ग्राम रास्ता-27	0	01	19		283	0	19	04
	123	0	46	80		नाला	0	03	45
	नाला	0	01	89		282/1	0	06	50

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र			ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	चौरस मीटर			हेक्टेयर	आर	चौरस मीटर
17 गुगलवाड- (जारी)	282/2ब/2	0	10	86		88/2	0	08	00
	282/2ब/3	0	06	50		87/1	0	09	00
	281	0	02	86		87/2/2	0	04	10
	280	0	30	88		87/2/1	0	04	10
	279	0	03	79		87/3/2	0	04	10
	एम. डी आर -17	0	03	24		नाला	0	00	47
	184	0	07	30		103	0	16	74
	185	0	12	26		नाला	0	04	76
	238	0	19	15		कच्चा रास्ता	0	00	44
	239/1	0	20	19		104/1	0	17	72
	239/2	0	20	19		104/2	0	10	00
	242	0	20	87		105/2	0	38	29
	243/1	0	07	77		106	0	33	12
	243/2	0	04	80		नाला	0	00	65
	243/3	0	04	80		74/3	0	07	56
	245	0	17	26		74/2	0	07	56
	232/1	0	16	27		सड़क	0	00	79
	232/2	0	16	27		118	0	31	56
	203	0	27	98		120	0	45	36
	204/2	0	20	48		132/1	0	11	54
	205	0	33	30		132/2	0	11	55
	207	0	50	40		131/1	0	18	76
	नाला	0	01	32		131/2	0	18	75
18 पळामंदरे	38	0	17	46		130	0	18	30
	कच्चा रास्ता	0	00	51		127	0	24	07
	37	0	26	90		129	0	06	37
	36/1	0	12	20		128/1	0	09	89
	36/2	0	30	69		128/2	0	09	89
	रास्ता	0	01	65		कच्चा रास्ता	0	00	90
	41	0	06	49		166	0	16	39
	42	0	12	96		167	0	18	77
	90	0	15	11		171/1	0	03	50
	91	0	21	89		173/1अ/1	0	25	00
	92/1	0	03	70		173/1अ/2	0	25	00
	92/1अ	0	03	70		173/1ब	0	25	00
	92/2	0	01	82		713/1ब/1	0	24	91
	89	0	11	50		71	0	36	00
	93/1	0	03	00					
	93/2	0	03	82					
	88/1	0	11	21					

[फाईल नंबर आर -31015/10/2001-ओ आर-II]

हरीश कुमार, अपर सचिव

New Delhi, the 4th September, 2001

S.O. 2364.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from the Panewadi (Manmad) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by Bharat Petroleum Corporation Limited;

And whereas, it appears that for the purpose of laying such extension pipeline, it is necessary to acquire the right of user of land described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by Sub-Section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the rights of user therein;

Any person interested in the land described in the said Schedule may, within 21 days from the date on which the copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right to Shri Prahlad V Kachare, Competent Authority, Mumbai Manmad Pipeline Extension Project, Bharat Petroleum Corporation Ltd., at camp office at 1st Floor, Ashapuri Plaza, Ravalgaon Naka, Malegaon Camp, Malegaon-423 105 (Maharashtra).

SCHEDULE

Tahsil : Malegaon District : Nasik State : Maharashtra

Name of Village	Survey/Gat No.	Area		
		Hectars	Acre	Sq. Mts.
1. Chondi	19	0	24	94
	20/2	0	12	71
	20/3	0	12	72
	20/4	0	12	71
	Drain	0	02	97
	50 A	0	66	09
	51/2	0	33	38
	52	0	13	44
	Drain	0	05	85
	54	0	17	28
	55	0	22	71
	75/1	0	25	20
	75/2/2	0	20	61
	74	0	36	85
	100	0	42	46
	99/1	0	49	29
	Cart. Track	0	00	40
	102	0	09	65

Name of Village	Survey/Gat No.	Area		
		Hectars	Acre	Sq. Mts
2. Jalgaon (N)	482	0	33	26
	483	0	34	30
	476/1	0	11	82
	476/2	0	11	82
	452	0	24	12
	Road, VR-80	0	01	98
	384	0	16	95
	451	0	05	36
	450	0	12	95
	448	0	13	12
	443	0	14	08
	Drain	0	03	24
	431/1	0	09	00
	431/2	0	08	99
	430/2	0	07	55
	429	0	08	62
	428/1	0	03	12
	428/2	0	03	13
	428/3	0	03	13
	428/4	0	03	13
	427	0	12	93
	426	0	00	51
	425/1	0	15	22
	425/2	0	15	22
	416/1	}	0	41
	416/2			
	Village Road-70	0	02	88
	417	0	24	91
	457	0	00	57
	418	0	11	67
	387	0	24	97
	388	0	32	50
	386	0	03	68
	Road, ODR-24	0	01	80
	389	0	00	36
	380/1	0	18	00
	380/2	0	08	43
	379/1	0	07	01
	379/2	0	07	00
	378	0	12	99
	377/1	0	09	12
	377/2	0	09	12

Name of Village	Survey/Gat No.	Area			Name of Village	Survey/Gat No.	Area		
		Hectars	Are	Sq. Mts.			Hectars	Are	Sq. Mts.
2. Jalgaon	Drain	0	02	34	4. Ghodegaon—	89/5	0	06	15
3. Kalcwadi	37	0	00	30	(contd.)	Road	0	00	60
	36	0	12	39		71	0	43	65
	35/1	0	07	41		69 A 1	0	12	24
	35/2	0	07	40		69 A 2	0	12	24
	35/3	0	06	00		69 A 3	0	12	24
	32	0	11	20		69 A 4	0	12	24
	Road	0	01	32		69 A 5	0	12	24
	31	0	08	11		78/2	0	18	90
	28	0	33	42		78/3	0	18	90
	Cart Track	0	00	61		77	0	24	48
	Cart Track	0	00	59		Drain	0	02	31
	Cart Track	0	00	90		76/1	0	12	70
	186	0	32	89		76/2	0	25	32
	1	0	08	06		76/3	0	12	62
	183/1	0	32	46		79/1	0	15	13
	182/1	0	09	06	5. Varhane	202	0	16	76
	182/2	0	09	06	6. Mehune	52	0	34	66
	182/3	0	09	06		53/1A	0	5	60
	178/3	0	32	12		53/1B	0	5	60
	178/5	0	24	06		53/2	0	11	55
	169	0	72	79		54/2	0	17	54
	Sukhi River	0	11	06		Road, VR-117	0	02	34
4 Ghodegaon	Road VR-69	0	02	33		55/1	0	23	29
	25/1	0	13	20		55/3	0	08	50
	25/3	0	28	15		56/1/1	0	05	20
	32/2	0	12	45		56/1/2	0	04	20
	32/4	0	12	45		77	0	30	47
	32/5	0	12	45		76	0	20	51
	39	0	09	64		75	0	13	13
	Road	0	00	48		72	0	20	15
	40	0	24	60		71	0	24	67
	41	0	20	68		Road, SH-16	0	02	44
	42	0	18	53		73	0	00	03
	44	0	04	67		106/1/3	0	10	92
	47	0	15	84		107/1	0	01	88
	50	0	19	69		108	0	32	11
	Drain	0	04	39		109	0	15	98
	89/1	0	06	15		110	0	20	84
	89/2	0	06	15		111/1	0	21	26
	89/3	0	06	15		111/2	0	21	27
	89/4	0	06	15		124/A/1	0	08	00

Name of Village	Survey/Gat No.	Area			Name of Village	Survey/Gat No.	Area		
		Hectars	Acre	Sq. Mts.			Hectars	Acre	Sq. Mts.
6. Mehune— (contd.)	124/1A/2	0	08	01	7 Chandanpuri	185	0	21	24
	216/1	0	09	27		Cart Track	0	00	90
	215	0	15	40		186	0	05	79
	214	0	12	98		Road MDR-23	0	05	99
	213/1	0	00	88		183	0	00	16
	212	0	12	21		180/2/2	0	25	62
	210/2	0	14	22		Cart Track	0	01	08
	210/1	0	17	48		176	0	16	25
	209	0	14	96		178	0	20	06
	208/1	0	06	61		179	0	01	20
	208/2	0	15	60		175	0	17	00
	208/3	0	05	04		173	0	13	44
	203	0	10	65		172	0	22	08
	204	0	13	39		171	0	00	97
	205	0	16	79		154	0	11	37
	206	0	06	67		158	0	12	82
	Cart Track	0	02	35		156	0	18	00
	188	0	13	48		Drain	0	01	15
	Road, VR-148	0	02	75		150	0	32	87
	188 Pt.	0	03	78		148	0	00	47
	328	0	04	77		Cart Track	0	00	90
	329	0	18	69		136/1	0	21	63
	330	0	16	04		132	0	09	49
	331	0	17	42		133	0	09	85
	332	0	11	55		119/1	0	17	50
	343	0	31	81		119/2	0	08	20
	342	0	19	05		119/3	0	08	20
	338	0	08	72		120/1	0	08	55
	339	0	03	45		89/1	0	00	52
	337	0	07	76		89/2	0	00	53
	340	0	24	44		89/3	0	00	52
	Drain	0	03	39		90	0	30	05
	Cart Track	0	00	49		88	0	45	62
7. Chandanpuri	194	0	08	41	8 Yesgaon Budruk	Cart Track	0	00	95
	193	0	36	83		124	0	06	73
	192	0	23	46		131/1	0	18	20
	Drain	0	02	81		131/2	0	18	19
	191	0	00	41		132/1	0	10	09
	191/A } 191/2 }	0	03	37		132/2	0	10	08
	188/1	0	10	30		133/1	0	30	37
	188/3	0	10	30					

Name of Village	Survey/Gat No	Area			Name of Village	Survey/Gat No.	Area			
		Hectars	Are	Sq. Mts			Hectars	Are	Sq. Mts	
8. Yesgaon	133/2	0	15	18	10. Savandgaon	106	0	19	26	
Budruk	133/3	0	15	18	(contd.)	109A	0	06	54	
(contd.)	Road, MDR-20	0	03	98		109B	0	03	00	
	134	0	19	48		117	0	14	04	
	135	0	20	18		Drain	0	11	51	
	136/1	0	09	54		142/1	0	13	50	
	136/2	0	09	54		142/2	0	12	78	
	136/3	0	09	54		142/3	0	19	00	
	136/4	0	09	54		143	0	14	50	
	136/5	0	09	54		147	0	12	60	
	136/6	0	09	51		246	0	17	64	
	Girna River	0	57	72		245	0	06	66	
9. Maldhe	2	1	25	82		243	0	23	40	
	Drain	0	01	08		242/1, 242/2	}	0	07	74
	109/A-1	}	0	00		242/3				
	109/A-2/1					241	0	41	69	
	108	0	27	90		Cart Track	0	00	59	
	107	0	19	30		Drain	0	06	30	
	106/A	0	26	30		254	0	00	21	
	106/B	0	15	28		255	0	32	94	
	104	0	03	33		Drain	0	03	02	
10. Savandgaon	42	0	23	07		256	0	04	50	
	43/1	0	10	50		259	0	05	04	
	43/2	0	10	50		260/1	0	21	60	
	43/3	0	14	48		260/2	0	21	60	
	44	0	20	70		260/3	0	21	60	
	Road VR-3	0	02	35		264	0	12	60	
	52A	0	22	65		263	0	07	92	
	53	0	02	61		262	0	32	40	
	51	0	02	34	11. Sayane	239	0	44	26	
	50	0	17	10	Budruk	240	0	00	54	
	61	0	04	02		238	0	05	40	
	62	0	28	26		197	0	49	78	
	63	0	20	66		196	0	12	36	
	64	0	10	30		Road, VR-102	0	04	06	
	65	0	01	26		Canal	0	01	38	
	92	0	01	34		195	0	33	82	
	91	0	10	40		194/1	0	10	31	
	90	0	05	23		194/3	0	10	31	
	89	0	05	89		188	0	10	08	
	Road	0	00	42		189	0	32	22	
	88	0	00	72		171/1	0	13	50	
						171/2	0	13	50	

Name of Village Survey/Gat		Area			Name of Village Survey/Gat		Area		
		Hectars	Acre	Sq Mts			Hectars	Acre	Sq Mts
11 Sayane	171/3	0	13	50	12 Malangaon	90/1	0	10	00
Budruk	171/4	0	05	50	(contd)	90/2	0	07	00
(contd)	Drain	0	00	36		90/3	0	10	00
	170	0	41	94		90/4	0	03	00
	169/1	0	15	73		90/5	0	07	00
	168/1	0	09	60		90/6	0	04	26
	168/2	0	06	90		83	0	31	32
	Drain	0	00	72		85	0	30	96
	158	0	01	71		Road, VR-220	0	02	16
	Drain	0	02	64	13 Chikhal Ohol	434	0	03	15
	157	0	10	54		Canal	0	02	34
	Drain	0	01	05		State Highway			
12 Malangaon	278/1	0	14	28		19	0	05	76
	278/2	0	14	28		433/1	0	12	00
	277	0	10	66		433/2	0	12	00
	279	0	19	19		433/3	0	18	94
	Cart Track	0	00	90		Drain	0	01	89
	Canal	0	00	80		524	0	12	40
	283	0	23	58		523	0	12	96
	284	0	05	40		435	0	11	88
	30 A/5	0	14	22		436	0	53	00
	30 A/6	0	07	38		438	0	12	7
	297/1/1	0	16	28		471/1	0	11	88
	297/1/2	0	16	28		471/2	0	11	88
	Road VR-154	0	01	94		469	0	19	36
	30A/1	0	74	70		467	0	50	00
	Canal	0	01	02		Road VR-208	0	01	17
	23	0	00	33		465	0	24	84
	24	0	18	69		463	0	03	81
	25	0	18	72		464	0	07	53
	101/1	0	06	99		483 A	0	14	79
	101/2	0	07	00		483 B	0	14	78
	101/3	0	07	00		484 A	0	10	00
	100	0	19	87		484 B	0	13	16
	99	0	17	14		485/1	0	06	72
	Canal	0	01	62		486/1	0	19	26
	Road	0	00	72		486/2	0	19	97
	96	0	36	52		Road, VR-207	0	00	72
	95	0	15	49		401/1	0	04	54
	91/A	0	27	17		401/2	0	04	53
	91/B	0	26	00		400/1	0	08	43
	Drain	0	01	93		400/2	0	08	43
						375	0	30	39

Name of Village	Survey/Gat No	Area			Name of Village	Survey/Gat No	Area		
		Hectars	Are	Sq Mts			Hectars	Are	Sq Mts
13 Chikhal Ohol	374/1	0	08	10	Road		0	02	16
(Contd)	374/2	0	08	10	15 Devarpade	219	0	02	52
	374/3	0	08	10	218/1, 2 &				
	374/4	0	08	10	all parts		0	46	27
	371/1/1/1	0	01	54	198		0	21	92
	371/1/2	0	04	32	197/1A		0	14	00
	Road	0	01	44	197/2		0	02	00
	372	0	33	93	197/3		0	02	00
	371/1/2	0	19	61	197/4		0	05	00
14 Nalc	175/1A	0	08	56	197/5		0	04	39
	175/1B1	0	08	00	196		0	02	36
	175/1B2	0	08	00	199		0	01	27
	175/2	0	08	56	Drain		0	00	93
	11/1	0	30	00	200		0	38	38
	11/2				189/A1		0	30	68
	11/2/2				189/A2		0	10	00
	11/2/3	0	32	09	203		0	41	94
	11/2/4				Drain		0	02	96
	11/2/5				Kanol River		0	11	80
	Road	0	00	65	186/1		0	14	00
	12	0	28	88	186/2		0	14	00
	13	0	18	81	186/3		0	28	16
	16	0	21	28	187		0	03	43
	15	0	15	12	184/4		0	06	20
	26	0	07	20	184/1		0	06	20
	27	0	05	62	184/2		0	12	40
	29	0	34	62	184/3		0	02	40
	28	0	11	34	184/3/1		0	04	50
	35	0	05	94	184/3/2		0	04	50
	36/1	0	18	00	183		0	18	60
	36/2/2	0	08	34	182		0	00	79
	36/2/1	0	18	00	174/1		0	18	49
	Road VR-156	0	01	10	174/2		0	18	50
	40/1	0	07	13	175		0	35	06
	40/2	0	07	13	176		0	04	18
	39/1	0	05	40	168/1		0	09	00
	39/2	0	04	45	168/2		0	04	88
	47	0	38	45	168/3		0	09	00
	48/1	0	07	75	169		0	07	02
	48/2	0	07	75	166		0	11	50
	48/3	0	07	75	165		0	10	51
	48/4	0	07	74	164		0	75	42

Name of Village Survey/Gat		Area			Name of Village Survey/Gat		Area		
No.		Hectars	Are	Sq. Mts.	No.		Hectars	Are	Sq. Mts.
15. Devarpade	Drain	0	00	46	16. Bhilkot	150/1	0	03	92
(Contd.)					(Contd.)	155	0	17	22
16 Bhilkot	Drain	0	04	55		152/1	0	07	00
	45/1A-1	0	19	90		152/2	0	07	00
	45/1B	0	08	00		152/3	0	15	00
	Drain	0	02	25		152/4	0	14	24
	Road	0	01	44		153/1	0	02	27
	44/1	0	17	12		153/2	0	02	27
	44/2	0	18	00		153/3	0	07	00
	43	0	08	80	17. Gugalwad	37	0	12	28
	81A	0	15	90		34	0	19	38
	81B	0	05	04		35	0	22	77
	82	0	05	38		299	0	00	21
	86	0	07	87		300	0	06	93
	85	0	13	68		303/1	0	05	60
	84	0	00	81		303/3	0	08	00
	87	0	12	50		302/1	0	13	05
	88	0	07	49		302/2	0	13	06
	98	0	31	21		308	0	17	10
	99	0	12	27		309/1	0	07	87
	97	0	18	97		309/2	0	07	88
	92/1	0	09	69		292	0	12	60
	92/2	0	08	00		283	0	19	04
	Road	0	00	72		Drain	0	03	45
	95	0	29	67		282/1	0	06	50
	Road, VR-27	0	01	19		282/2B/2	0	10	86
	123	0	52	63		282/2B/3	0	06	50
	Drain	0	01	89		281	0	02	86
	Cart Track	0	00	34		280	0	30	88
	118	0	05	40		279	0	03	79
	119A	0	17	00		Road, MDR-17	0	03	24
	119/B	0	08	56		184	0	07	30
	120	0	00	41		185	0	12	26
	139	0	08	82		238	0	19	15
	123 Pt	0	30	24		239/1	0	20	19
	Cart Track	0	01	06					
	Drain	0	02	16					
	128	0	15	54					
	138/2	0	01	91					
	135	0	14	13					
	134	0	19	63					
	133	0	34	22					
	Road, ODR-29	0	02	22					

Name of Village	Survey/Gat No.	Area			Name of Village	Survey/Gat No.	Area		
		Hectars	Are	Sq. Mts			Hectars	Are	Sq. Mts
17. Gugalwad	239/2	0	20	19	18. Palasdare	Drain	0	00	47
(Contd.)	242	0	20	87	(Contd)	103	0	16	74
	243/1	0	07	77		Drain	0	04	76
	243/2	0	04	80		Cart Track	0	00	44
	243/3	0	04	80		104/1	0	17	72
	245	0	17	26		104/2	0	10	00
	232/1	0	16	27		105/2	0	38	29
	232/2	0	16	27		106	0	33	12
	203	0	27	98		Drain	0	00	65
	204/2	0	20	48		74/3	0	07	56
	205	0	33	30		74/2	0	07	56
	207	0	50	40		Road	0	00	79
	Drain	0	01	32		118	0	31	56
18. Palasdare	38	0	17	46		120	0	45	36
	Cart Track	0	00	51		132/1	0	11	54
	37	0	26	90		132/2	0	11	55
	36/1	0	12	20		131/1	0	18	76
	36/2	0	30	69		131/2	0	18	75
	Cart Track	0	01	65		130	0	18	30
	41	0	06	49		127	0	24	07
	42	0	12	96		129	0	06	37
	90	0	15	11		128/1	0	09	89
	91	0	21	89		128/2	0	09	89
	92/1	0	03	70		Cart Track	0	00	90
	92/1A	0	03	70		166	0	16	39
	92/2	0	01	82		167	0	18	77
	89	0	11	50		171/1	0	03	50
	93/1	0	03	00		173/1A/1	0	25	00
	93/2	0	03	82		173/1A/2	0	25	00
	88/1	0	11	21		173/1/B	0	25	00
	88/2	0	08	00		713/1B/1	0	24	91
	87/1	0	09	00		71	0	36	00
	87/2/2	0	04	10	[File No. R-31015/10/2001-OR-II]				
	87/2/1	0	04	10	HARISH KUMAR, Under Secy				
	87/3/2	0	04	10					

नई दिल्ली, 6 सितम्बर, 2001

का.आ. 2365.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोकार्हात में यह आवश्यक है कि महाराष्ट्र राज्य में पानेवाडी (मनमाड) संस्थापन से मध्य प्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसा प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए ऐसी भूमि जिनके भीतर पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इससे उपाबद्ध अनुसूची में वर्णित है, में उपयोग के अधिकार का अर्जन करना आवश्यक है;

अब: केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, इस अधिसूचना से युक्त भारत के राजपत्र, की प्रतियां साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिनों के भीतर, उसमें या भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार का अर्जन के लिए लिखित रूप में श्री प्रह्लाद ढ्ही, कच्चे, सक्षम प्राधिकारी, मुंबई मनमाड पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, पहली मंजिल, सेवा कॉम्प्लेक्स, गुरुद्वारा के सामने, मुंबई आगरा मार्ग, धुले 424001 (महाराष्ट्र) को आक्षेप कर सकेगा;

अनुसूची

तहसील : शिंदखेडा जिला : धुलिया राज्य : महाराष्ट्र

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	सेंटी मीटर
1	2	3	4	5
1. बेटावद	पांझरा नदी	0	59	57
	कच्चा रास्ता	0	00	63
	688	0	09	17
	689	0	12	18
	722	0	01	07
	868/1 } 868/2 }	0	24	73
	नाला	0	00	35
	707	0	16	62
	721	0	00	47
	718	0	07	93
	708	0	13	31
	709	0	05	85
	710	0	11	40
	711	0	22	62

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	सेंटी मीटर
1	2	3	4	5
1. बेटावद — (जारी)	704/1 704/2 624	}	0	20 23 47
2. पढावद	54 53 58 59/1 59/2 60 76 74/1 74/2 75 73 72 71 70 69		0	13 13 39 01 01 12 12 30 05 12 10 89 23 72 69
	ग्राम रास्ता-75 177/1अ 177/2अ 177/1ब 177/2/1/ब 177/1ब/1/2 177/ब/2/2 177/2/1 177/2/2		0	01 85 15
	178/1 178/2 179 एम.डी.आ.-36 243 242/1 242/2 कैनाल 240 239/1/1/1 239/1/2 239/2 238 237 230 232	}	0	31 39 84 54 79 22 41 09 49 30 50 28 10
3. पाष्ट			0	
			0	

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	सेंटी मीटर
1	2	3	4	5
3 पाण्टे-(क्रमशः)	231	0	11	71
	233	0	05	81
	111	0	06	61
	112	0	12	99
	114/1	}	0	11
	114/2			
	113/अ	}	0	05
	113/ब			
	117/1	}	0	16
	117/2			
	118/1		0	70
	कच्चा रास्ता		0	00
	567		0	07
	568/1	}	0	37
	568/2			
	68/1	}	0	02
	68/2अ			
	68/2ब			
	69		0	15
	70		0	01
	71		0	12
	73/1/1	}	0	29
	73/1/2			
	73/1/3			
	73/1/4			
	73/2			
	63		0	17
	कच्चा रास्ता		0	00
4 मुडावद	241		0	15
	242/ब2	}	0	31
	242/4			
	242/3			
	242/ब1			
	242/2			
	243/1अ1	}	0	33
	243/1अ2			
	243/1ब			
	243/2			
	237		0	13
	235/1	}	0	51
	235/2			
	235/3			
	235/4			
	235/5			

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	सेंटी मीटर
1	2	3	4	5
4 मुडावद-(जारी)	234/1	0	14	70
	234/2	}	0	06
	233			
	232		0	05
	276		0	12
	278		0	05
	नाला		0	00
	297		0	43
	296		0	03
	298		0	03
	नाला		0	00
	299		0	08
	कच्चा रास्ता		0	00
	300		0	10
	302		0	09
	312		0	13
	311		0	15
	कच्चा रास्ता		0	03
	648/1	}	0	23
	648/2			
	653/1अ	}	0	18
	653/1ब			
	653/2अ			
	653/2ब			
	653/3			
	ग्राम रोड-74		0	00
	653/1अ	}	0	21
	653/1ब			
	653/2अ			
	653/2ब			
	653/3			
	654		0	43
	ग्राम रोड-189		0	00
5 बढोदे	23		0	11
	ग्राम रोड-55		0	03
	24		0	18
	25		0	00
	86		0	20
	22/1	}	0	11
	22/2			

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टेयर	आर	सेंटी मीटर
1	2	3	4	5
	88	0	08	80
5. वढोदे (क्रमशः)	87	0	33	85
	कच्चा रास्ता	0	00	54
6. मळसर	36	0	24	65
	37	0	31	02
	42/1 } 42/2 }	0	41	28
	41	0	15	06
	एम.डी.आर.-36	0	02	70
	118	0	30	59
	119/1अ	0	12	71
	कच्चा रास्ता	0	00	34
	119/1ब	0	37	03
	126/1 } 126/2 }	0	21	09
	122/1 } 122/2 }	0	25	89
	126/3 } 126/4 }	0	35	25
	163/1 } 163/2 }	0	51	19
	कच्चा रास्ता	0	00	36
	206/1अ } 206/1ब } 206/1क }	0	12	08
	166/1	0	36	06
	नाला	0	01	46
	203/1 } 203/2 }	0	64	15
	200	0	29	20
	201	0	01	23
	कच्चा रास्ता	0	02	2
	199/1 } 199/2 } 199/3 } 199/4 } 199/5 }	0	39	13
	नाला	0	00	63
	198/1 } 198/2 }	0	24	42

[फा. सं. आर-31015/16/2001-ओ आर-II]

हरीश कुमार, अपर सचिव

New Delhi, the 6th September, 2001

S.O. 2365.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from the Panewadi (Manmad) terminal in the State of Maharashtra, an extension pipeline to Manglya (Indore) in the State of Madhya Pradesh should be laid by the Bharat Petroleum Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user of land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the rights of user therein:

Any person interested in the land described in the said Schedule may, within, twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Prahalad V. Kachare, Competent Authority, Mumbai Manmad Pipeline Extension Project, Bharat Petroleum Corporation Ltd., 1st Floor, Seva Complex, Opp. Gurudwara, Mumbai-Agra Road, Dhule-424 001 (Maharashtra).

SCHEDULE

Tehsil : Shindkheda District : Dhule State: Maharashtra

Name of Village	Gat/Survey Nos.	Area		
		Hectars	Are	Sq. Mts.
(1)	(2)	(3)	(4)	(5)
1. Betavad	Panzara River	0	59	57
	Cart Track	0	00	63
	688	0	09	17
	689	0	12	18
	722	0	01	07
	868/1 } 868/2 }	0	24	73
	Drain	0	00	35
	707	0	16	62
	721	0	00	47
	718	0	07	93
	708	0	13	31
	709	0	05	85
	710	0	11	40
	711	0	22	62

Name of Village	Gat/Survey No	Hectars	Area Are	Sq Mts	Name of Village	Gat/Survey No	Hectars	Area Are	Sq Mts	
(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)	
1 Betav ad— (Contd)	704/1	}	0	20	74	3 Pashte—	231	0	11	71
	704/2					233	0	05	81	
	624	0	23	47	111	0	06	61		
2 Padhav ad	54	0	13	04	112	0	12	99		
	53	0	13	67	114/1	}	0	11	15	
	58	0	39	75	114/2					
	59/1	}	0	01	35	113/A	}	0	05	96
	59/2					113/B				
	60	0	12	07	117/1	}	0	16	74	
	76	0	12	10	117/2					
	74/1	}	0	30	54	118/1	0	70	45	
	74/2					Cart Track	0	00	72	
	75	0	05	78	567	0	07	80		
	73	0	12	60	568/1	}	0	37	01	
	72	0	10	89	568/2					
	71	0	09	23	68/1	}	0	02	73	
	70	0	05	72	68/2A					
	69	0	31	69	68/2B					
	Road, VR-75	0	01	85	69	0	15	60		
	177/1A	}	0	39	15	70	0	01	26	
	177/2A					71	0	12	98	
	177/1B					73/1/1	}	0	29	20
	177/2/1/B					73/1/2				
	177/1B/1/2					73/1/3				
	177/B/2/2					73/1/4				
	177/2/1					73/2				
177/2/2	63	0	17	20						
178/1	}	0	31	39	Cart Track	0	00	71		
178/2					4 Mudavad	241	0	15	20	
179	0	06	84	242/B2	}	0	31	11		
Road, MDR-36	0	02	54	242/4						
243	0	04	79	242/3						
242/1	}	0	27	32					242/B1	
242/2					242/2					
Canal	0	00	41	243/1A1	}	0	33	33		
240	0	00	09	243/1A2						
239/1/1	}	0	42	49					243/1B	
239/1/2					243/2	}	0	51	75	
239/2					237					0
238	0	02	30	235/1						
237	0	01	50	235/2						
230	0	20	28	235/3						
3 Pashte	232	0	11	10	235/4	}	0	14	70	
					235/5					
					234/1	}	0	14	70	
					234/2					

Name of Village	Gat/Survey No.	Area		
		Hectars	Are	Sq. Mts.
(1)	(2)	(3)	(4)	(5)
4. Mudavad— (Contd)	233	0	06	80
	232	0	05	58
	276	0	12	69
	278	0	05	21
	Drain	0	00	78
	297	0	43	58
	296	0	03	04
	298	0	03	41
	Drain	0	00	72
	299	0	08	96
	Cart Track	0	00	39
	300	0	10	27
	302	0	09	94
	312	0	13	26
	311	0	15	22
	Drain	0	03	96
	648/1 } 648/2 }	0	23	40
	653/1A } 653/1B } 653/2A } 653/2B } 653/3 }	0	18	01
	Road VR-74	0	00	61
	653/1A } 653/1B } 653/2A } 653/2B } 653/3 }	0	21	60
	654	0	43	20
	Road, VR-189	0	00	39
5. Vadhode	23	0	11	70
	Road VR-55	0	03	60
	24	0	18	00
	25	0	00	20
	86	0	20	68
	22/1 } 22/2 }	0	11	46
	88	0	08	80
	87	0	33	85
	Cart Track	0	00	54

Name of Village	Gat/Survey No.	Area		
		Hectars	Are	Sq. Mts.
(1)	(2)	(3)	(4)	(5)
6. Malsar	36	0	24	65
	37	0	31	02
	42/1 } 42/2 }	0	41	28
	41	0	15	06
	Road MDR-36	0	02	70
	118	0	30	59
	119/1A	0	12	71
	Cart Track	0	00	34
	119/1B	0	37	03
	126/1 } 126/2 }	0	21	09
	122/1 } 122/2 }	0	25	89
	126/3 } 126/4 }	0	35	25
	163/1 } 163/2 }	0	51	19
	Cart Track	0	00	36
	206/1A } 206/1B } 206/1C }	0	12	08
	166/1	0	36	06
	Drain	0	01	46
	203/1 } 203/2 }	0	64	15
	200	0	29	20
	201	0	01	23
	Cart Track	0	02	20
	199/1 } 199/2 } 199/3 } 199/4 } 199/5 }	0	39	13
	Drain	0	00	63
	198/1 } 198/2 }	0	24	42

[File No. R-31015/16/2001-OR-II]

HARISH KUMAR, Under Secy

श्रम मंत्रालय

नई दिल्ली, 21 अगस्त, 2001

क्र.आ. 2366.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकारों ईस्टर्न रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं 2 धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं. एल-41012/51/91-आई. आर (बी-3)/(बी-1)]

अजय कुमार, डेस्क अधिकारी

MINISTRY LABOUR

New Delhi, the 21st August, 2001

S.O. 2366.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No 2 Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Eastern Railway and their workman, which was received by the Central Government on 20-8-2001

[No L-41012/51/91-IR (B-3)/(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO 2) AT DHANBAD****PRESENT**

Shri B Biswas,
Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1)(d) of the I D Act, 1947

Reference No 157 of 1991

PARTIES Employers in relation to the management of Eastern Railway and their workman

APPEARANCES :

On behalf of the workman Shri D Mukherjee, Advocate

On behalf of the employers Shri S N Dutta, Advocate

State Jharkhand Industry Railway

Dated, Dhanbad, the 25th July, 2001

AWARD

The Govt of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I D Act, 1947 has referred the follow-

ing dispute to this Tribunal for adjudication vide their Order No L-11012/51/91-IR (B-3), dated, the 13/19-11-91

SCHEDULE

"Whether the action of the management of Eastern Railway, in imposing the following punishment on the workman Shri K K Dutta was justified ? If not, to what relief the workman is entitled to?

(i) Reduction to minimum stage in the pay scale for 3 years with commulative effect

(ii) Period from the date of removal to the date of reinstatement i e 2-6-89 to be treated as L W P

2 The facts of the case as disclosed in the W S of the workman in brief is as follows —

It has been submitted by the concerned workman that he was served with a Major Penalty Memorandum SF-5 vide No DSL/E/137/KKD dt 2-5-86 under Rule 9 of RS(D & A) Rules, 1968 and accordingly D & A proceedings was initiated against him but the charges levelled against him could not be sustained rather it was established that the basis of which the statement of imputation of misbehaviour/misconduct alleged against him and the article of charges were quite contradictory to each other As a result, the disciplinary authority without applying his own mind awarded the order of punishment in contravention to Rly Board's letter No as under —The workman submitted that after exhausting all the administrative channels he filed a case before the CAT Patna Bench, Patna and according by a judgement was delivered by the Hon'ble CAT vide Registration No OA/275 of 1987 dt 6-4-89 and while abiding by the verdict of the CAT the charged employee submitted his appeal dt 11-11-89 to the appellate authority with the request of personal hearing associating with his defence counsel After giving patience hearing the Appellate authority reinstated him vide Order dt 2-6-90 subject to the condition —

(a) His punishment reduced to reduction to minimum stage of his scale when removed from service for three (3) years with cumulative effect

(b) The period from the date of removal to the date he reported for duty should be treated as LWP

The concerned workman submitted that thereafter he submitted a review petition with a prayer for review the order in question But his petition was considered and rejected Finding no other alternative way the concerned workman by way of reference raised the present industrial dispute with a prayer for passing an Award for quashing the order of punishment keeping in view of the procedural lapses in dealing with RS (D&A) Rules, 1968

since the order of punishment has been issued in contravention of the Railway Board's letters noted below :—

- (i) CPO/E Roy, Calcutta letter No. E.308/O/Vol. III dt. 25-6-86.
- (ii) Rly. Bd's letter No. E(D&A) 70RG6-14 dt. 20-4-71.
- (iii) Rly. Bd's letter No. F(E)/57/FR-1/1 dt. 22-1-60.
- (iv) CPO/E Rly. Calcutta's letter No. E. 308/O/Vol XI dt. 29-6-87 (CPO Sl. No. 140/87).
- (v) Rly. Bd's letter No. E(D&A) 70 RG6/58 dt. 18-11-70.
- (vi) Rly. Bd's letter No. E(D&A)/70RG6-1 dt. 02-6-70.
- (vii) CPO/E Rly. Calcutta's letter No. E. 308/O/Vol. XIII dt. 7-6-89.

3. The management on the contrary after filing W.S. has denied all the claims and allegation which the concerned workman asserted in his W.S. It has been submitted by the management that at any rate in view of the decision of the Appellate Authority for reducing of the penalty of the workman in appeal as per direction of the CAT the present application is not tenable. The management submitted that the Appellate Authority have substantially reduced the punishment by their order dt. 28-11-89 on consideration of the appeal of the workman. They further submitted the major penalty Memorandum was issued to the appellant as laid down under rule 9 of D&A Rule, 1968 and thereby as per rule the necessary proceeding was initiated against the workman. The allegation made to the extent that the charges were unsupported and absolutely misconceived, misleading in view of the facts that the charges framed were supported by the fitter under the workman as well as FIC concerned. The management denied the fact that departmental authority did not apply the mind before imposing any penalty finding the concerned workman guilty. However, the management admitted that as per directive of the CAT vide order dt. 6-4-89/12-4-89 in a case No. CA/275/87 the applicant submitted his appeal dt. 28-4-89 to the Appellate Authority and to the said appeal they in consideration of the directive of the CAT reduced punishment inflicted on the workman. The management alleged that the application filed by the concerned workman is absolutely misconceived and misleading and made for the purpose of making unjust enrichment and illegal gain and for which the same is liable to be rejected.

4. The points for decision in this reference are:—

“Whether the action of the management of Eastern Railway, in imposing the following punishment on

the workman Shri K.K. Dutta was justified? If not, to what relief the workman is entitled to?

- (i) Reduction to minimum stage in the pay scale for 3 years with cumulative effect.
- (ii) Period from the date of removal to the date of reinstatement i.e. 2-6-89 to be treated as L.W.P.”

DECISIONS WITH REASONS

5. The management in order to substantiate their claim examined two witnesses while the concerned workman examined himself as witness in order to establish his own claim. Considering the evidence of the concerned workman and the management there is no dispute to hold that by order No. DSL/E/137/KKD dt. 4-1-87 the concerned workman was removed from his service as disciplinary measure with effect from 15-1-87. Against the said order of removal the concerned workman preferred an appeal before the CAT Patna. Learned Members of the said CAT after hearing the appeal quashed the order of removal passed by the management and the case was remanded back to the appellate authority for passing fresh order relying on the observation made in the body of the judgement. Thereafter the appellate authority of the management reviewed the previous order in view of the direction given by the CAT and passed another order Bearing No. DSL/E/137/KKD dt. 2-6-89. The said order in course of evidence was marked as Ext. M-3. By the said order the concerned workman though was found guilty was directed to be reinstated with immediate effect from 2-6-89 subject to the condition that his punishment reduced to reduction of minimum stage in his scale when removed from service for 3 years with cumulative effect and the period from the date of removal to the date he reported for duty should be treated for LWP. Against the said order the concerned workman made further appeal before the appropriate authority but his appeal was rejected vide No. DSL/E/137/KKD dt. 4-8-90. The said order during evidence was marked as Ext. M-6. The management also by letter No. DSL/E/137/KKD dt. 5-4-90 (marked as Ext. M-5) also communicated the concerned workman to the effect that there was no further scope of reduction in punishment. Accordingly the punishment should stand. It is the specific allegation of the concerned workman that no proper enquiry was held by the Enquiry Officer on the basis of which he was found guilty and served with punishment. He submitted that without committing any offence he became victimised. Considering the records there is no dispute to hold that on the basis of enquiry report the concerned workman initially was removed from service. Against that order he preferred an appeal before the CAT Patna and the said order of removal was duly quashed by the CAT and the case was remanded back for fresh hearing. It is the

contention of the concerned workman that though he preferred an appeal before the appropriate authority no such hearing was done by the appellate authority in his person and he could not get any opportunity to make his submission. He was also not served with all papers before he was punished for the second time by the disciplinary authority. It is with utter surprise I noticed that the management in course of hearing has failed to produce a single scrap of paper relating to the departmental enquiry held against the concerned workman by the E.O. Even the management did not consider necessary to produce the chargesheet which was given to the concerned workman. The concerned workman has specifically challenged the legality and validity and propriety of the enquiry in question. He submitted that Chargesheet given to him was based on false allegations. Therefore, onus lies absolutely on the management to establish to the effect that no chargesheet was given falsely to the workman and the enquiry was held maintaining all propriety and legality and also in accordance with the principles of natural justice. The Hon'ble CAT Patna in the judgement clearly observed that the order of removal was quashed as it was not at all a reasoned, order, and quashing the order it was directed that the appellate authority should furnish copy of the enquiry report and the statement of witnesses recorded by the E.O. within one month from the date of receipt of the order after which the applicant will file a supplementary Memorandum of appeal within 15 days. The appellate authority should give a personal hearing to the applicant and dispose of the appeal after giving detailed reasons meeting all points raised in the supplementary memorandum as well as the appeal petition. No evidence is forthcoming before this Court on the part of the management that hearing of the appeal by the disciplinary authority was taken up complying with the strict directions of the CAT. There was scope on the part of the management to produce all relevant papers in support of their claim but they did not consider necessary to do so. The management in course of hearing examined two witnesses but they also did not disclose anything to this effect in support of the management. No reasoned order is also forthcoming before the Court in the matter of finding the concerned workman was found guilty. The letter marked as Ext. M-3 does not clearly speak if full opportunity was given to the concerned workman at the time of hearing. It is the specific claim of the concerned workman that without giving any opportunity to hearing and also without passing any reasoned order in view of the directions of the CAT the disciplinary authority has further inflicted punishment on him illegally and arbitrarily and for which it has violated the principles of natural justice. Learned Advocate for the management in course of hearing has failed to give any satisfactory explanation for non-production of relevant papers before

the Court. No explanation also could be given by the learned Advocate why the disciplinary authority in compliance to the specific direction of the CAT did not consider necessary to pass reasoned order. At the time of hearing I have also failed to peruse the relevant papers relating to the enquiry in question and also relating to further hearing of appeal. Unless and until the charge which was brought against the concerned workman is established and also until and unless the Tribunal is satisfied that the enquiry held by the concerned Enquiry Officer was fair, proper and in accordance with the principles of natural justice there is little scope to uphold the order of punishment inflicted upon the concerned workman. I find no hesitation to say that the disciplinary authority though inflicted punishment upon the concerned workman did not consider necessary to justify the same at the time of hearing of the reference. As such under the circumstances I should say that the punishment inflicted upon the concerned workman was not only illegal and arbitrary but also it has violated the principles of natural justice and for which the same is not sustainable in the eye of law. In the result, the following Award is rendered :—

"The action of the management of Eastern Railway, in imposing the following punishment on the workman Shri K. K. Dutta was not justified. Consequently, the concerned workman is entitled to the following relief :

- (i) The management is directed not to make any reduction to minimum stage in the pay scale for 3 years with cumulative effect.
- (ii) The management is further directed not to treat the period from the date of removal to the date of reinstatement i.e., 2-6-89 as L.W.P."

The management is directed to implement the Award within three months from the date of its publication in the Gazette of India.

B. BISWAS, Presiding Officer

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2367.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रेलवे इलेक्ट्रिफिकेशन, कोटा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं. एल-41012/67/87-डी.(2) बी/आई. आर.(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 21st August, 2001

S.O. 2367.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal /Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Railway Electrification, Kota and their workman, which was received by the Central Government on 20-8-2001

[No. L-41012/67/87/D (2) B/IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM

LABOUR COURT, JAIPUR

CASE NO. CGIT 67/2000

REFERENCE NO. L-41012/67/87/D(2)B

Dated : 20/3/1989

The Divisional Secretary,

Paschim Railway Karamchari Parishad

Kota

.....APPLICANT UNION

1. The Executive Engineer-II

Railway Electrification,

Kota.

2. The Chief Project Manager

Railway Electrification,

Kota.

.....NON-APPLICANT

ATTENDENCE

For the applicant ; Shri A.D. Grower, Advocate

For the non-applicant ; Shri Shyam Gupta Advocate

Date of Award : 4-7-2001

AWARD

The following industrial dispute was referred by the Central Government vide order No. L-41012/67/87/D-2(B) dt : 20-3-1989 to the Central Government Industrial Tribunal New Delhi for adjudication under clause (d) of Sub-section (1) of the Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as Act, 1947) for adjudication.

“Whether the action of Executive Engineer-II, RE, Kota is justified in terminating the services of Shri Dutta S/o Sh. Laxmidhar, Casual Khalasi under PWI/RE/KOTA w.e.f. 20-2-85 (A.N.)? If not, what relief the workman is entitled to?”

Later on the proceedings in the above case were withdrawn by the Central Government and transferred to this Tribunal vide order No. L-41012/67/87/IR (B-I) dt. 28-8-2000.

The applicant filed the statement of claim stating that he was engaged by the non-applicant No. 1 i.e. , Railway Electrification, Kota on 22-11-82 and granted scale rate from 22-5-83. On 21-10-84 he was not taken on duty. Later on he was implicated in some false and fabricated case by the non-applicant for alleged misbehaviour and misconduct resulting into his illegal termination vide order dt. 20-2-85. He had served the non-applicant for more than 240 days in the year preceding to the date of termination of his services. However no pay in lieu of notice or retrenchment compensation as required under 25(F) of the Act, 1947 was paid to him. He had served the non-applicant for more than 360 days and was entitled for grant of temporary status. However, no charge sheet for alleged misconduct was issued to him and thus no enquiry was conducted against him under Rule 9 of Railway Servants (D & A) Rules, 1968 (hereinafter referred as Rules 1968). It was prayed that he be reinstated in service with continuity in service, back wages and all other benefits.

The non-applicant in reply stated that the applicant was engaged on 22-12-82 and he was granted scale on 1-7-83. It was denied that the applicant was not taken on duty on 21-10-84. It was stated that the applicant had worked from 22-12-82 to 20-2-85 in various spells of period for which he was paid. It was denied that the applicant was implicated in false and fabricated cases and his services was illegally terminated. It was stated that the applicant was removed from establishment by the competent authority for proved charges of serious misconduct in compliance with the Rules laid down by the Railway administration dt. 5-8-82. It was also stated that removal of the applicant doesn't fall under the definition of retrenchment and, therefore, provisions of section 25(F) of Act, 1947 are not applicable. It was denied that the applicant had worked for more than 360 days as continuous service.

The applicant filed rejoinder to reply reiterating the facts mentioned in the claim. On behalf of the non-applicants affidavit of S.K. Asthana and S.C. Srivastava were filed. The learned representative of the applicant was given opportunity to cross examine them on their affidavits. In the form of documentary Evidence copy of the statement showing service details of the applicant marked M-I copy of instructions regarding retrenchment

marked M-2 copy of order of removal from service marked M-3 copy of proceedings regarding show-cause notice marked M-3 (ii) copy of the order regarding refusal for reference marked M-4 and copy of the show-cause notice marked M-5 were filed.

On behalf of the applicant the applicant filed his own affidavit. The learned representative of the non-applicant was given opportunity to cross-examine him on his affidavit.

Heard arguments of the learned representative of the applicant and the advocate for the non-applicant and perused the record. It is not disputed that the applicant had worked in establishment of the non-applicant as casual khalasi from 22-12-82 to 20-2-85. The statement showing the service details of the applicant marked M-1 shows that the applicant had worked in the establishment of the non-applicant for more than 240 days in the year preceding to the date of termination. It is not disputed that no prior notice of one month was given by the non-applicant for terminating the service of the applicant. The order of removal of the services of the applicant dt. 20-2-85 marked M-3 doesn't show that pay-in-lieu of notice and compensation as required by the section 25(F) of the Act, 1947 was offered to him at the time of terminating of his services. All that the order states that the applicant should present himself in cashier office (R.E.) Kota for receiving payments which will be arranged within 48 hours. No details of the amount were given in the order. The offer to collect dues within 48 hours doesn't fulfil the requirements of section 25(F) of the Act, 1947.

The learned counsel for the non-applicant has contended that the applicant was removed from service on account of proved misconduct and, therefore, termination of his service does not fall under retrenchment. It is admitted by S C. Srivastava, Assistant Superintendent examined on behalf of the non-applicant that no charge sheet was issued to the applicant and, therefore, no enquiry was conducted against the applicant under the Rules 1968. The learned counsel for the non-applicant has contended that the applicant had not completed 360 days of continuous service for grant of temporary status. On the other hand the learned representative of the applicant has contended that the applicant had completed 360 days of service and 30 days break in service (including 3 day's unauthorized absence) has to be ignored as break in service for the purpose of determining 360 days of continuous service. The statement marked M-1 shows that the applicant had worked for more than 360 days from 22-12-82 to 20-2-85 and his break in service during the above period doesn't exceed 30 days. The applicant thus acquired temporary status for having worked continuously for more than 360 days and as per Rule, 2005 of the Indian Railway Establishment Manual he acquired the rights

and benefits admissible to temporary railway servants including the benefit of Rules, 1968. The applicant's services couldn't, therefore, be terminated without making any enquiry under the Rules, 1968 for the charge of misconduct. It is thus proved that the applicant services were terminated without making any enquiry under the Rules, 1968.

Thus the services of the applicant were terminated in violation of the section 25(F) of the Act, 1947 and in the alternative against the principles of natural justice and, therefore, the termination of the services of the applicant is held to be illegal and unjustified. The applicant has not stated in the claim or in his statement that he has remained unemployed since the date of termination. In view of these circumstances the applicant will not be entitled to back-wages. He will be entitled to reinstatement in service with continuity in service.

The copies of the Award may be sent to the Central Government under section 17(1) of the Act, 1947 for publication.

Sd/-
Presiding Officer

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2368.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नोर्दन रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं. एल-41012/171/98-आई. आर. (बी-1)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 21st August, 2001

S.O. 2368.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 20-8-2001.

[No L-41012/171/98-IR (B-1)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
LUCKNOW

PRESIDING OFFICER : RUDRESH KUMAR

ADJUDICATION
I.D.No. 134/2000

Ref. No. L-41012/171/98-IR(B-I) 7-5-99

BETWEEN

Mata Prasad,
S/o Ram Garib,
Vill. & P.O. : Panhauna,
Rae Bareli (U.P.)

AND

The Divisional Railway Manager,
Northern Railway,
Hazratganj,
Lucknow

AWARD

By reference No. L-41012/171/98-IR(B-I) dated 7-5-99, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the I.D. Act, 1947 (14 of 1947) made over this industrial dispute between Mata Prasad S/o Ram Garib, Rae Bareli and Divisional Railway Manager, Northern Railway, Lucknow for adjudication to CGIT-cum-Labour Court, Kanpur but later transfer to CGIT-cum-Labour Court, Lucknow.

The reference is produced as under :

“Whether The Action of the Management of Northern Railway in Terminating the Services of Shri Mata Prasad was legal and Valid ? If not what Relief workman is entitled to ?”

2. It is alleged that the workman, Mata Prasad, was appointed by the Railway management, w.e.f. 30-12-82, on the post of Chowkidar; that he was assigned duties in the Northern Railway Institute, Charbagh, Lucknow; that he was performing 12 hours shift duties to look after properties of Northern Railway management; that he had been availing facilities of free pass, medical, bonus, uniform and leaves as railway rules given to all railway employees; and that he was also provided railway accommodation. The workman further alleges that despite continuous service from 30-12-82 to July 1994 in which he completed more than 240 days in each calendar years, his services were terminated abruptly in August 1994 without any notice, notice pay or retrenchment compensation. Relief of reinstatement with back wages is sought by the workman.

3. The management on the other hand, has denied engagement or appointment of the workman by the Divisional Railway Manager, Northern Railway or any officer representing the railway establishment. It is further stated that the workman was kept as Chowkidar by the Managing Committee of the Institute at Charbagh, Lucknow. The workman did not implead Honorary Secretary, Railway Institute at Charbagh, Lucknow as party in this claim. It is admitted that Institute building was provided by the Railway to Managing Committee for being used and grant in aid was also given, but in no way the management of the Institute was under the railway establishment or its employees were paid by the railway.

4. The Honorary Managing Committee handed over this building to Railway Protection Force in the year 1992 for residential purposes, and the Institute ceased to function. As a result, the workman went out of employment.

5. The management has disowned liability of the workman to absorb him in its services pleading that he was never engaged by the railway establishment and so can not claim right of employment. It is further pleaded that 2(oo) or section 25(F) of the I.D. Act, is not applicable in this case.

6. In the claim statement, an illustration of Prabu Das has been given in whose favour CGIT, Kanpur made an award, treating him as railway employee. The management filed writ petition against the award before the High Court. By order dated 4-5-98, the High Court stayed operation of the award dated 28-12-97. The management has further stated that the High Court rejected application of Prabu Das under section 17-B I.D. Act, treating non-existence of relation of master and servant.

7. Parties adduced oral and documentary evidence to substantiate their respective claims and counter claims.

8. Factum of engagement of the workman as Chowkidar by the Secretary of the Institute, and his continuous service as such are not disputed. The only question remains, whether the Chowkidar of Railway Institute may be taken to be a railway employee, casting liability of employment over the railway.

9. In All India Railway Institute Employees Association through the General Secretary Vs Union of India through the Chairman Railway Board, the Hon'ble Supreme Court in Civil Writ Petition No. 1389/87 held as follow. :

“On the facts placed before us which we have discussed above, we are also not persuaded to hold that there is relationship of employer-employee between the railway administration and the employees engaged in the institute and clubs. Neither law nor facts spell out such relationship. If

the present service conditions of these employees as unsatisfactory, the remedy lies elsewhere.”

10. All the points raised in this claim statement were dealt with, in the said judgment of the Apex Court. After analysing facts, rules regulations the Hon'ble court held that the watchman and other categories of employees directly engaged in the institute and clubs, can not be treated as railway employees. The workman failed to show that the above said decision has been dissented or overruled. Accordingly, this Tribunal is bound to follow law laid down by the Apex Court.

11. The workman admittedly was engaged by the managing committee. No doubt he was given certain facilities like pass and medical facilities etc. but grant of such facilities would not entitle him to claim status of railway employee. As observed earlier, the Apex Court had already deliberated on the issue and held in categorical terms that employees of the Institute are not railway employee. Hence, there arise no question of termination of services by the railway management and he (workman) is not entitled to any relief.

12. Award as above.

Lucknow
14-8-2001

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2369.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, जेट एयर लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोलकता के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-11012/149/2000-आई. आर. (सी-1)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2369.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Jet Air Ltd. and their workman, which was received by the Central Government on 16-8-2001

[No. L-11012/149/2000-IR(C-I)]
N P KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 44 of 2000

Parties Employers in the relation to the management
of M/s. Jet Air Limited.

AND

Their workman

PRESENT

Mr. Justice Bharat Prasad Sharma
..... Presiding Officer

APPEARANCE :

On behalf of Mr. D. Chatterjee, Senior Executive
Management Personnel & Administration.

On behalf of None.
Workmen

State West Bengal.

Industry : Airlines.

AWARD

By order No L-11012/149/2000 (C-I) dated 18th October, 2000 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication;

“Whether the Action of the Management of M/s. Jet Air Limited, Calcutta in terminating the services of Shri Sekhar Sarkar w.e.f. 16-6-1999 is legal and justified? If not, to what relief is the workman concerned entitled?”

2. When the case is called out today, none appears for the workman and no step is taken on his behalf to proceed with the case. Representative of the management states that since the workman has not taken any step in the matter, the management has nothing to say a “No Dispute” Award may be passed. It appears from record that in spite of several opportunities the workman did not file his statement of claims. It is accordingly clear that the workman has no interest left in the matter.

3. In such circumstance, in the absence of any material what-so-ever for any decision in respect of the schedule under reference, this Tribunal has no other alternative but to dispose of the matter by passing a “No Dispute” Award.

4. A “No Dispute” Award is accordingly passed and the reference is disposed of.

B. P. SHARMA, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

AWARD

का.आ. 2370.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/12/91-आई. आर. (सी-1)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 20st August, 2001

S.O. 2370.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s CCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-20012/12/91-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri B. Biswas,
Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 118 OF 1991

PARTIES : Employers in relation to the
management of Ara Colliery of M/s
CCL and their workman.

APPEARANCES .

On behalf of Sh. C. Prasad, Advocate
the workman

On behalf of B. Joshi, Advocate.
the employers

State Jharkhand

Industry : Coal

Dated, Dhanbad, the 31st July, 2001

The Govt of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/12/91-I.R. (Coal-I), dated, the Nil.

SCHEDULE

"Whether the action of the management of Ara Colliery of CCL, P.O. Kaju, Dist Hazaribagh by retiring from service of Shri Larku Mahto, Cat III Pump Khalasi w.e.f. 6-2-1990 is justified? If not, to what relief the workman concerned is entitled?"

2. The case of the concerned workman in brief as per W.S. is as follows :—

The concerned workman in his W.S. submitted that the action of the management for superannuating him on 6-2-90 was illegal and unjustified. He submitted that the management has acted against the provision of the Certified Standing Order of the company and also has made serious discrimination in the matter of making correction of his date of birth in spite of giving due notice. The concerned workman submitted that his date of birth in service record was wrongly recorded by the management and in violation of the provision of Certified Standing Order. He submitted that his date of birth in the record of the C.M.P.F. authorities was recorded as 6-2-40 and accordingly his superannuation at the age of 60 years will be on 6-2-2000. But the management illegally and arbitrarily superannuated him from the service on 6-2-90. In spite of getting scope to correct his date of birth in the service record relying on the records of the C.M.P.F. Accordingly the concerned workman has prayed for passing an Award for his reinstatement in the service with full back wages and other benefits.

3. The management on the contrary after filing W.S. cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his W.S. The management submitted in the W.S. that the concerned workman was previously employed as Pump Khalasi at Ara Colliery. The said colliery was previously under private sector owned by a private owner. It's management was taken over by the Central Govt. in view of the order issued by the President of India with effect from 31-1-73 and it was subsequently nationalised with effect from 1-5-73. The management submitted that they follow the norms in the matter of maintenance of service book of each worker under them. The service book of each employee was opened after nationalisation of the collieries and the date of birth of the concerned workman was

recorded in the service book and also in the Form B register according to the data supplied by them. In the year 1987 as per decision of the Joint Bipartite Committee for the Coal Industries the service excerpt was given to the concerned workman in duplicate containing his personal particulars/bio-data including his date of birth and he was required to return one copy thereof to the management with objection in the event of any entries therein not being correct. The concerned workman after receiving the service excerpt handed over the duplicate copy to the management without raising any objection relating to his date of birth as 6-2-30 recorded in the service book and Form B Register. Accordingly before the date of superannuation notice was duly given to the concerned workman informing the date of his superannuation and thereafter he was superannuated from his service with effect from 6-2-90. The concerned workman after the date of superannuation has raised this dispute which does not appear to have any basis. Accordingly the management has prayed for passing an Award to reject the claim of the concerned workman.

4. The points for consideration in this reference are :—

“Whether the action of the management of Ara Colliery of CCL P.O. Kuju, Dist. Hazaribagh by retiring from service of Sri Larku Mahto, Cat. III Pump Khalasi w.e.f. 6-2-1990 is justified? If not, to what relief the workman concerned is entitled to?”

5. DECISIONS WITH REASONS

The workman in order to substantiate his claim examined himself as witness in the instant case while the management adduced two witnesses in order to substantiate their own claim. From the evidence of the concerned workman it transpires that he was superannuated from his service in the year 1990. Thereafter he raised an industrial dispute relating to his superannuation on the ground that the management superannuated him prematurely by 10 years. During cross-examination the concerned workman has failed to disclose his exact date of birth. He also admitted that for the first time he raised the dispute relating to his age. He also admitted the fact that he was superannuated from service as per entry relating to the particulars of his date of birth etc. furnished by him. It is the specific claim of the management that previously Ara Colliery was under the management of private owner and after nationalisation in the year 1973 the service book of the concerned workman was opened along with others and particulars in the service book relating to the personal credential of the person concerned were recorded according to the

information given by the concerned workman. Date of birth and other particulars were also recorded in the Form B Register as per provision of the Standing Order. Thereafter in the year 1987 the management in view of the decisions of the JBCCI issued service excerpt in duplicate to the concerned workman wherein his date of birth was recorded as 6-2-1930. After consulting the service excerpt the concerned workman returned back the duplicate and at that time he did not raise any objection. A copy of the service excerpt during evidence was marked as Ext. M-1 and the I.D. card issued in favour of the concerned workman was marked as Ext. M-2. from the service excerpt and copy of the I.D. Card it exposed clearly that the date of birth of the concerned workman was 6-2-1930. It is the specific allegation of the concerned workman that date of birth was wrongly recorded but in support of his claim he has failed to file a single scrap of paper. Even the concerned workman in course of hearing and also in the W.S. filed by him did not raise any objection relating to the receipt of the service excerpt issued by the management in the year 1987 as per JBCCI decision. It is seen that after the date of his superannuation he raised this dispute. There was scope on the part of the concerned workman to agitate this issue following the provision of the Standing Order immediate on receipt of the service excerpt but he did not consider to do so. The concerned workman during cross-examination admitted categorically that the date of birth recorded in the service book by the management was according to the particulars furnished by him. When this admission on the part of the concerned workman is forthcoming before the Tribunal, there is little scope to ignore the same, unless and until the concerned workman is able to produce authentic document to show that the date of birth recorded in the service recorded by the management as 6-2-30, was wrong. The concerned workman also has failed to assign any reason why after the date of his superannuation he raised this dispute. After careful consideration of facts and circumstances, there is reason to believe that the concerned workman has raised this dispute only to get benefit of his service illegally and arbitrarily. I have failed to find out an iota of evidence relying on which there is scope to draw any conclusion that the management superannuated the concerned workman on 6-2-90 illegally and arbitrarily and without following the principles of natural justice and accordingly the concerned workman is not entitled to get any relief. In the result, the following Award is rendered :—

“The action of the management of Ara Colliery of CCL P.O. Kuju, Dist. Hazaribagh by retiring from service of Sri Larku Mahto, Cat. III Pump Khalasi w.e.f. 6-2-1990 is justified. Consequently the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

SCHEDULE

का.आ. 2371.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में, निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल.-20012/51/95-आईआर (सी-I)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2371.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-20012/51/95-IR (C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT :

SHRI B. Biswas,

Presiding Officer

In the matter of an industrial dispute under section 10(1)(d) of the I.D. Act, 1947.

Reference No. 45 of 1996

PARTIES :

Employers in relation to the management of Ara Colliery of M/s. CCL and Their workman.

APPEARANCES :

On behalf of the workman: Shri S. C. Gaur, Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 24th July, 2001

AWARD

The government of India, Ministry of Labour, in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/51/95-I.R. (Coal-I) dated, the 19th March, 1996.

"Whether the workman is justified in claiming that he was illegally terminated by the management of Ara Colliery of M/s. C.C.L. on the basis of wrong entry of date of birth in service records ? If so, to what relief is the workman entitled ?"

2. The case of the concerned workman as per W. S in brief is as follows :—

The concerned workman submitted that he was appointed by the management of Ara Colliery in the year 1976 as Mining Sirdar and at the time of his appointment he filed original sirdarship certificate to the management wherein the date of birth was recorded as 21-8-36. The said Sirdarship certificate was issued to the concerned workman by the D.G.M.S. in the year 1968. He submitted that in all statutory records date of birth was mentioned as 21-8-86 and his accordingly his superannuation was due on 21-8-96. The management ignoring his date of birth recorded in the Sirdarship certificate issued a notice of superannuation to him on completion of 60 years on 2-4-94. On receipt of the letter of superannuation he raised his voice for illegal and wrongful superannuation but to no avail and as a result he submitted petition before the ALC(C) Hazaribagh for settlement of the dispute but that too yielded no result. By this time he was retired illegally, arbitrarily and wrongfully prior to his actual date of retirement. Accordingly the concerned workman raised industrial dispute by making this reference. The concerned workman has prayed for passing an award holding to the effect that the superannuation was not only illegal, wrongful but motivated and he is entitled to get salary with other consequential benefits till the date of his actual superannuation i.e. 21-8-96.

3. The management on the contrary after filing W.S. - cum-rejoinder have denied all claims and allegation which the concerned workman asserted in his W.S. It has been submitted by the management that the workman has no right to claim to the effect that he was illegally terminated from his service if he was superannuated on the basis of the date of birth recorded in the service records of the company. The management submitted further that the case of the concerned workman was not a case of termination rather he was superannuated after completing the age of 60 years. Referring this fact the management further submitted that an industrial dispute by an employee can be raised under Section 2(A) of the I.D. Act, 1947 over the issue of dismissal, termination or retrenchment and in no other cases an individual dispute can be converted into an industrial dispute. Accordingly the management submitted that the present reference for an individual dispute is liable to be summarily rejected on preliminary issue. The management submitted further that the date of birth of the concerned workman was entered in

the service sheet and recorded as 2-4-34. The date of birth recorded in the Form B Register was also recorded as 2-4-34 and the same date of birth was recorded in the C.M.P.F. record maintained by the C.M.P.F. and in the service excerpt issued to the concerned workman as per JBCCI circular. Disclosing all the facts the management further submitted that there was no variation in the date of birth entered in different registers of the company and as such no question arose for correction of his date of birth by sending him to the Apex Medical Board. Moreover, the concerned workman did not raise any dispute recording his age in the service sheet, in the service excerpt and in the CMPF during the entire period of his service. He only raised the present dispute after his superannuation challenging the date of his superannuation. The management submitted that as per provision of Industrial Employment Standing Order Act, 1946, the Model Standing Order or the Certified Standing Order is absolutely clear that the date of birth recorded in the service record of the company is the sole evidence for deciding the retirement of concerned workman. Several circulars were also issued by the management and by JBCCI setting out the guidelines for review of the date of birth correction of the date of birth in the service record with the help of medical board in case of any dispute. In spite of getting opportunities the concerned workman did not raise any dispute for correction of his date of birth from the date of his appointment till the date of his retirement and even after his retirement he did not raise any dispute. His only claim is that his retirement was illegal to the effect that date of birth recorded in the service records was not correct. Accordingly the management disclosed that delay in raising the dispute not only defeated the remedy but also extinguished his right and for which at this juncture he is not entitled to get any relief. Accordingly, the management has prayed for passing an Award holding that the concerned workman is not entitled to get any relief.

4. The points for consideration in this reference are :—

"Whether the workman is justified in claiming that he was illegally terminated by the management of Ara Colliery of M/s CCL on the basis of wrong entry of date of birth in service records ? If so, to what relief is the workman entitled ?"

FINDINGS WITH REASONS

5. The concerned workman in course of his evidence disclosed that he was appointed as Mining Sirdar in Ara Colliery in the year 1976. At the time of his appointment he submitted his Mining Sirdar certificate, gas testing certificate and first aid certificate, wherein his date of birth was properly recorded. It is the specific allegation that the date of birth appearing in the Mining Sirdar certificate was not duly recorded by the management while he was appointed as Mining Sirdar. From the evidence of the witness i.e. the concerned workman, I find further that on 6-11-87 he deposited the Mining Sirdar certificate and gas testing

certificate on proper receipt and the receipt during his evidence was marked as Ext. W-3. Learned Advocate for the management on the contrary raising strong objection against the document submitted that the document does not justify if it was actually deposited to the management in connection with his service. From this document I also do not find any official stamp relying on which it can be said that the same was duly received by the management. As such genuineness of this document relating to the deposit of the certificates has come to a question. However, it is clear considering his evidence that the concerned workman did not submit the relevant certificate at the time of his appointment in the year 1976. It is the specific claim of the concerned workman that his date of birth according to the Mining Sirdar certificate was 21-8-36 and naturally his date of superannuation was 21-8-96. Relying on the Mining Sirdar certificate marked as Ext. W-1 the concerned workman submitted that the management illegally and arbitrarily superannuated him with effect from 2-4-94 and as a result of which he was deprived of enjoying his service period to the tune of 2 years and 4 months approximately. Learned Advocate for the management in course of hearing submitted that whenever any workman is entered into service his date of birth is recorded in the Form B Register which has been considered as authentic document in the matter of not only for recognition of age and also in respect of other matters. Learned Advocate for the management submitted that several circulars were also issued by the management as well as by the JBCCI setting out the guidelines for review of date of birth and correction of date of birth entered in the service record of the company with the help of medical board in case of any dispute. In this connection not only learned Advocate for the management but also the concerned workman referred to JBCCI circular No. 76 of 1988. Referring the said circular it has been pointed out that the said circular has clearly clarified how to correct date of birth at the time of review with the help of Matriculation certificate or statutory certificate like Mining Sirdar certificate etc. if authentic documents are not available. Learned Advocate for the management submitted that all the procedures for review of date of birth could be followed if any workman files representation within a reasonable time. Learned Advocate for the management referring the evidence of the concerned workman submitted categorically that the concerned workman did not submit any representation to this effect prior to his superannuation. WW-1 i.e. the concerned workman during his cross-examination admitted clearly to the effect "I never filed any case for correction of the date of birth entered in the Form B Register as 2-4-1934." Therefore, it is clear from the evidence of the concerned workman that though he raised this industrial dispute after his superannuation did not consider necessary to raise the same before the Management well ahead before his superannuation. Learned Advocate for the management in course of hearing categorically submitted that in the year 1987 service excerpts were supplied not only to the concerned workman but also to all the workmen under the management.

In the said service excerpts the date of birth of the concerned workman was duly recorded. But inspite of getting knowledge of his date of birth as per service excerpts he did not make any representation to the effect and therefore after the date of his superannuation the concerned workman cannot agitate this issue. It is clear from the submission of learned Advocate of both sides and also from the evidence of the concerned workman that the concerned workman did not raise any dispute over his date of birth so long he remained in the service. From register Ext. M-1 it transpires clearly that the date of birth of the concerned workman was recorded as 2-4-34. Relying on the Mining Sirdar certificate the concerned workman submitted that actually his date of birth was 27-8-36 and that certificate was duly shown to the management at the time of his appointment. However, to this effect I do not find any evidence that at the time of his getting appointment the said certificate was actually produced before the management. Referring clause B(i) (b) of Implementation Instruction No. 76 Learned Advocate submitted that Mining Sirdarship certificate or similar other statutory certificate where the Manager has to certify the date of birth will be treated as authentic. The Mining Sirdar Certificate during evidence of the concerned workman was marked as Ext. W-1. The certificate was issued under the signature of the Secretary of the Board of Mining Examination and Chairman of the Board of Mining Examination. From this certificate I do not find any endorsement on the part of the Manager relating to the certification of the date of birth of the concerned workman. It is seen that the concerned workman was appointed under the management at Ara Colliery in the year 1976 while he passed Sirdarship examination in the year 1968, i.e. long before getting his appointment under the management he obtained this certificate. Therefore, the concerned workman cannot avoid responsibility to establish the authenticity of the date of birth in question particularly when it is seen that during his entire service tenure he did not arise any such objection. The concerned workman during his evidence admitted that though other workers of the management received service excerpts he did not receive any such. The explanation given by the concerned workman appears to be not sufficient. No reason has been assigned when all the workmen received service excerpts from the management why he did not perceive the same. There was no reason to believe that he was not served with any such service excerpt. Therefore, the plea taken by the concerned workman I consider is not cogent enough to accept. It is the specific contention of the concerned workman that his superannuation was illegal and wrongful. If it is taken into consideration that it was illegal and wrongful the course was open to the concerned workman to agitate this issue well ahead of his superannuation fixed by the management. On the contrary remaining himself silent all through after only getting his order of retirement he raised this dispute which definitely is not tenable in the eye of law. Learned Advocate for the management referring the decisions reported in 1994 Lab I.C. 2498 submitted categorically that such dispute relating to the

rectification of the date of birth cannot be entertained at all. In the said decision Their Lordships of the Appex Court held that correction of age sought by an employee at the fag end of service is not permissible. Decisions reported in 2000 (85) F.L.R. 1938 also will support the claim of the management in this regard. In the said decision. Their Lordships of the Calcutta High Court also held that correction of age sought at the fag end of service on the basis of Matriculation certificate cannot be accepted.

6. Referring the decisions referred to above and also considering the evidence of the concerned workman learned Advocate for the management submitted categorically that date of birth of the concerned workman recorded in the form B Register is to be considered as conclusive and final and as the concerned workman did not raise any dispute well ahead of his date of superannuation he is not entitled to get any such relief relating to the rectification of age. I have already discussed above in details about the claim of the concerned workman and I consider that at this juncture there is no scope to entertain any such claim. In the result the concerned workman is not entitled to get any relief. Accordingly the following Award is rendered :—

“The workman is not justified in claiming that he was illegally terminated by the management of Ara colliery of M/s.C.C.L on the basis of wrong entry of date of birth in service records. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2372.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल.-20012/150/96-आईआर (सी-I)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2372.—In pursuance of Section 17 of the industrial dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCCL and their workman, which was received by the Central Government on 16-8-2001.

[No L-20012/150/96-IR (C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

SHRI B. Biswas, Presiding Officer

In the matter of an industrial dispute under section
10(1)(d) of the I.D. Act, 1947.

Reference No. 86 of 1997

PARTIES : Employers in relation to the
management of Lodna Area of M/s.
BCCL and Their workman.**APPEARANCES :**On behalf of the workman · Shri Surendra Pandey,
Organising Secretary,
R.C.M.S.,

On behalf of the employers : Shri D. K. Verma, Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 26th July, 2001

AWARD

The Government of India, Ministry of Labour, in
exercise of the powers conferred on them under section
10(1)(d) of the I.D. Act, 1947 has referred the following
dispute to this Tribunal for adjudication vide their Order
No L-20012/150/96-I R (C-I), dated, the 24th July, 1997.

SCHEDULE

"Whether the action of the management of Lodna Area
of M/s. B.C.C. L. in dismissing the services of Shri
Ram Chandra Rabidas, Miner Loader is legal and
justified ? If not, to what relief is the said workman
entitled ?"2. In this reference both the parties appeared before
this Tribunal and filed a Memorandum of settlement under
their signature. I heard both the parties on the said settlement
and I do find that the terms contained therein are fair, proper
and beneficial to both the parties. Accordingly I accept the
said settlement and pass an Award in terms thereof which
forms part of the Award as annexure.

B. BISWAS, Presiding Officer

FORM—H

See Rule 58

Memorandum of settlement arrived at between the
management of BCCL, Lodna Area and Shri Ram
Chandra Rabidas, Ex-Miner/Loader, Bagdigi Colliery

PRESENT

On behalf of management

On behalf of workman

1. Shri H. Surin,
Personnel Manager,
Lodna Area.1. Shri Surendra Pandey,
Organising Secretary,
Rashtriya Colliery
Mazdoor Sangh.2. Shri RB Singh,
Sr. Personnel Officer,
Bagdigi Colliery.2. Shri Ram Chandra Rabidas
Ex-Miner/Loader,
Bagdigi Colliery.

SHORT RECITAL OF THE CASE

Shri Ram Chandra Rabidas, Ex-Miner/Loader of
Bagdigi Colliery was dismissed from the services of the
company for the alleged misconduct of unauthorised absence
in the year 1992. Shri Ram Chandra Rabidas appealed before
the management for the reinstatement in service which was
approved by the competent authority vide letter No. BCCL:
PER. IR: REINSTATEMENT : 2000 : 5218 DATED 25/26-
7-2000 of General Manager I/c (P&IR), BCCL, Koyla
Bhawan, Dhanbad.Shri Ram Chandra Rabidas has been allowed to be
reinstated on the following terms and conditions :

TERM AND CONDITIONS

1. Shri Ram Chandra Rabidas has been found medically
fit to perform his duties.
2. No gratuity and PF has been withdrawn by Shri Ram
Chandra Rabidas.
3. Shri Ram Chandra Rabidas has not gone for any Court/
Conciliation case on this issue, if any the same will
be withdrawn.
4. Shri Ram Chandra Rabidas will discharge his duty
with full loyalty and devotion to the management.
5. His identity must be established by the unit concerned.
6. No wages, what-so-ever, will be paid or claimed by
the person concerned from the date he reported absent
followed by dismissal and subsequently be reinstated.
The period of idleness till the resumption of duty
shall be treated as dies-non however the continuity of
service will be allowed for the purpose of gratuity.
7. Shri Rabidas will be allowed at 'Badli' Piece Rated
Worker.

The dispute is resolved once for all.

(H SURIN)
Personnel Manager,
Lodna Area(SURENDRA PANDEY)
Organising Secretary,
RCMS(RB SINGH)
Sr. Personnel Officer,
Bagdigi(RAM CHANDRA RABIDAS)
Ex-Miner/Loader,
Bagdigi

नई दिल्ली, 20 अगस्त, 2001

AWARD

का.आ. 2373.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. टाटा आयरन एण्ड स्टील कं. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/167/94-आई आर (सी-I)]
एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2373.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government, hereby publishes the award of the Central Government Industrial Tribunal, (No. II), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Tata Iron and Steel Co. and their workman, which was received by the Central Government on 16-8-2001.

[No. L-20012/167/94-IR (C-I)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 73 of 1995

PARTIES :

Employers in relation to the management of Tisco Ltd.,
and their workman.

APPEARANCES :

On behalf of the workman : Shri D. Mukherjee,
Secretary, Bihar Colliery
Kamgar Union.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Jharkhand

INDUSTRY : Coal

Dated, Dhanbad, the 24th July, 2001

2742GI/2001- -16

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (167)/94-I.R. (Coal-I), dated, the 19th April, 1995.

SCHEDULE

"Whether the action of Jamadoba Colliery management of M/s. TISCO in denying employment to the dependent of late Basisthmuni Pandey, Ex-Timber in violation of NCWA-II provision is justified? If not, to what relief the concerned workman is entitled?"

2. The instant industrial dispute has been raised by Bihar Colliery Kamgar Union, Dhanbad over refusal of employment of the son of deceased workman Basisthmuni Pandey on the ground stated therein. The case of the concerned union as per W.S. in brief is as follows :—

The union in the W.S. submitted that Basisthmuni Pandey was a permanent Timber Mazdoor of Jamadoba Colliery. The concerned workman i.e. Basisthmuni Pandey was declared unfit by the company's medical board and accordingly on the ground of unfitness his service was terminated by the management with effect from 24-3-1982 and thereafter the said workman died on 9-8-1982. It has been submitted that before his death the concerned workman submitted a representation before the management for employment of his dependent son on the ground of medical unfitness as per provision of NCWA and also as per policy decision of the management, but his appeal went in vein. After the death of the concerned workman on 9-8-1982 his wife submitted a representation one after another for providing employment to the dependent of the deceased worker. But the management did not pay any heed to her representation though in the letter issued by the management dated 14-4-1992 they assured employment of one dependent of the deceased workman. As a result an industrial dispute was raised by way of making reference.

3. The management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegation which the concerned union asserted in the W.S. It has been submitted by the management that the concerned workman did not disclose the name of the dependent whose employment is required and for which they submitted that the reference in question is not sustainable in the eye of law for the same. The management admitted that the deceased workman Basisthmuni Pandey was a Timber Mazdoor at Jamadoba Colliery having his Ticket No. 2624. He was employed on 19-5-1961 and was discharged from his service on medical ground on 24-3-1982. The management submitted that

according to the company's procedure each and every employee working in the company is entitled to get one of his dependent enrolled in the Employees Dependent Register for providing him employment in the event of any vacancy caused in the colliery. They submitted that the deceased workman during the tenure of his service also enrolled his son Shri Baleshwar Pandey as his dependent in the employees dependent register for providing him employment against future vacancies. It is submitted further that no right has been conferred in the Company's scheme for automatic absorption of the dependent of an employee immediately after completion of 15 years of service. The employment of the dependent of an employee is subject to the condition of availability of vacancies and according to the seniority amongst the employees on the strength of total period of service put by him. As the company's scheme for employment covers each and every employee without any discrimination amongst themselves the same has been considered to be more favourable than to any other scheme for employment of dependents under the NCWAs and the management has been allowed to continue to provide employment to the dependents as per its own scheme and not as per the provision of NCWAs. There is specific agreement and arrangement with the recognised union to continue with the existing scheme of employment of dependents and to apply the same uniformly to each and every employee without any discrimination. The management further submitted that in course of advancement of technology and planning provision for giving employment to the dependent son has been squeezed and for which it has become difficult to provide employment to the dependent to each and every employee immediately after completion of 15 years of service by an employee. It has been further submitted that the sponsoring union after accepting such awards as per agreement has no right to raise the dispute one after another over the self same issue in the Tribunal. Therefore the present reference is obviously without any merit and the demand of the sponsoring union is liable to be summarily rejected. The management further submitted that as per the Company's Scheme the name of Baleshwar Pandey has duly been enrolled as the dependent son of late Basistmuni Pandey and his case will only be considered when his turn will arise. As per the rank of seniority his turn will come and he will be provided with employment against some vacancy. Accordingly the demand of the sponsoring union to provide employment of deceased workman according to the provision of NCWA is without any merit and the same is liable to be rejected.

4 Now the points for consideration in this reference are :

“Whether the action of Jamadoba Colliery management of M/s TISCO in denying employment to the dependent of late Basistmuni Pandey, Ex-Timber in violation of NCWA-II provision is justified? If not, to what relief the concerned workman is entitled?”

DECISIONS WITH REASONS

5. The management in course of hearing examined one witness in support of their claim which they have relied on in the W. S. The concerned workman, however, did not examine any witness in support of the claim. Considering the evidence of the management witness and also considering the facts disclosed in the W. S. filed by the union and the W. S -cum-rejoinder of the management I find no dispute to hold that the deceased workman Basistmuni Pandey was a Timber Mazdoor at Jamadoba Colliery and his Ticket No. was 2624. He was employed on 19-5-61 and was discharged from his service on medical ground on 24-3-82. It has been admitted by the management that as per Company's procedure each and every employee working in the company is entitled to get one of his dependent's enrolled in the employees dependent register for providing him employment in the event of any vacancy existing in the colliery. The management further admitted that the deceased workman during the tenure of his service enrolled the name of his son Shri Baleshwar Pandey as his dependent in the employees dependent register for providing him employment against future vacancy. It has also been clearly submitted by the management that as there is a standing agreement between the union and the management about the provision for making employment of dependents son they have their separate entity and for which they are not supposed to abide by the provision as laid down in the NCWA in the matter of giving employment of dependent son. It is the specific claim of the union that as per provision of NCWA-II the son of the deceased workman is entitled to get a job under the management and in support of this claim the learned advocate for the concerned workman referred to provisions 9-4-2 and 9-4-3 of NCWA-II. I have consider the provision and I find no dispute to ignore the submission of the learned advocate in this regard. Rule 9-4-4 of NCWA disclosed categorically that one dependent of the employee would be provided employment but in case of TISCO, the same would be subject to their existing practice. Learned Advocate for the workman in course of hearing did not deny the existence of any agreement between the management and the union in the matter of providing employment to dependent son. Therefore, the question which is arising here whether inspite of existing agreement in between the concerned workman and the management of TISCO, the provision as provided in NCWA-II is applicable or not. Rule 9-4-4 of NCWA is clear on this point. Therefore, there is little scope to challenge this aspect. However, there is scope to say that as per standing policy the management will provide employment to the dependent son of the concerned workman subject to the condition that the name of the dependent is enrolled in the company's register. Here in the instant case there is no dispute to hold that the name of the dependent son of the deceased workman was duly enrolled while the deceased workman was in service. It is seen that the concerned workman had to receive his termination order from the management after exerting service for more than

20 years as he was declared medically unfit and it is further seen that immediately thereafter he died. It is the contention of the union that not only the deceased workman during his life time submitted representation before the management for providing employment of his son but also after his death his widow also submitted representation to consider her prayer in the matter of providing employment to her son. From the letter marked as Ext. W-2 it appears that the management acknowledging the receipt of the said representation assured to provide employment of one of the dependent of the deceased workman when his turn will arrive. The said letter was written on 10/14-4-92. It is seen that nine years have already elapsed but the dependent of the deceased workman has not yet been provided with any employment. No evidence is forth coming before this Tribunal about waiting list and also turn of the dependent of the deceased employee for getting his employment. MW-1 during his evidence disclosed that under the scheme the question of consideration of appointment of dependent arises only after service of 15 years, by the employee. This witness further disclosed that the name of the son of the deceased workman was duly enrolled in the register of the management. It is also disclosed further that such type of appointment depends on the basis of seniority and against vacancies. Disclosing this fact this witness submitted that the turn of the son of the concerned workman is yet to come. This witness was examined in the month of April, 1998 and after his evidence three years have already elapsed but the position remained in the dark whether the turn of the concerned workman has come or not. Here one thing has to be taken into consideration relying on the principles of natural justice. It is seen that the deceased workman did not get any scope to complete his service tenure on medical ground and for which he was terminated from his service. It is further seen that within few months after termination from service the said workman died. Therefore the claim of the deceased workman shall not be equated with the claim of other workman who have been retired from service after completing their service tenure. Principles of equality and natural justice should be followed in such cases. There is no dispute to hold that the deceased workman rendered his service for the benefit of the management and practically he was terminated due to his medical unfitness. Therefore, the claim of the deceased workman and the claim of the others who have been retired in natural course should not be tagged together. It is a fact that the management never denied of giving any service to the dependent of the deceased workman but it is their submission that he will have to wait for his turn of employment. It is seen that the concerned workman died about 19 years back and before termination he enrolled the name of his dependent son for his employment. It is very hard to believe that after a lapse of 19 years the management failed to provide any employment to the dependent of the deceased workman. Definitely the management as per agreement is liable to follow the principles but simultaneously the management cannot ignore the cases with priority basis where the workman died in

harness. The management in course of hearing has failed to produce any statistics before the Court actually how many vacancies accrued during last 19 years and how many vacancies were filled up from the employees dependents. In absence of any such statistics there is reason to believe that the management taking the plea of technical progress is trying to avoid the employment of the dependent son of the deceased workman. As there is specific assurance to provide employment to the dependent son of the deceased workman the management cannot avoid responsibility to discharge their duties. I consider that awaiting for 19 years continuously is too much, and I do not believe that within such long period no such vacancy accrued where the dependent son of the deceased workman could not be provided.

6. Considering all aspect carefully I hold that the claim of the union for providing employment to the son of the deceased workman stands on cogent footing and following the principles of equity and natural justice he should be provided with job by the management. In the result, the following Award is rendered :—

“The action of the Jamadoba Colliery management of M/s. TISCO in denying employment to the dependent of late Basisthmuni Pandey, Ex-Timber in violation of MCWA-II provision is not justified. Consequently the dependent of late Basisthmuni Pandey, Ex-Timber Mazdoor is entitled for employment under the management.”

The management of M/s. TISCO is directed to provide employment to the dependent of late Basisthmuni Pandey Ex-Timber Mazdoor as directed above within three months from the date of publication of the Award in the Gazette of India.

B. BISWAS, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2374.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/210/92-आई आर (सी-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2374.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government, hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in

relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-20012/210/92-IR (C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 62 of 1993

PARTIES :

Employers in relation to the management
of Bhagaband Colliery of M/S BCCL and
their workman.

APPEARANCES :

On behalf of the workman : None.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Jharkhand

INDUSTRY : Coal

Dated, Dhanbad, the 26th July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/210/92-I.R. (Coal-I), dated, the 19th May, 1993.

SCHEDULE

"Whether the action of the management of Bhagaband Colliery of M/s. BCCL in not allowing Shri Ramashish Bhuia to resume his duty is justified ? If not, to what relief the workman is entitled to ?"

2. The case of the concerned workman as per W. S. in brief is as follows :—

The concerned workman in his W. S. submitted that originally he was an employee of Gopalichak Colliery and thereafter he was transferred to Bhagaband Colliery along with other workers. After receiving the said order of transfer he reported for duty at Bhagaband Colliery but he was not

allowed to join. As a result he returned back from Bhagaband Colliery to Gopalichak Colliery. The management of Gopalichak Colliery did not allow him to join there on the ground of his transfer. In this way he loitered for 3/5 months for his joining at Gopalichak Colliery and Bhagaband Colliery. Accordingly the concerned workman raised this industrial dispute by way of reference and prayed for passing necessary award so that he may be allowed to join his post at Bhagaband Colliery.

3. The management on the contrary after filing W. S.-cum-rejoinder have denied all the claims and the allegations which the concerned workman asserted in his W.S. The management submitted that the concerned workman was a Miner/loader at Gopalichak Colliery in the year 1984. Thereafter by office order dt. 11-2-84 the said workman along with 24 others were transferred to Bhagaband Colliery from Gopalichak Colliery. In pursuance of the said order of transfer other workmen were released from Gopalichak Colliery on 16-2-84 with a direction to join their new assignment. But except the concerned workman other joined to the place of transfer. On the contrary the concerned workman without joining to his new assignment left for his village. After about 7 years of transfer the concerned workman and the sponsoring union placed demand before the management to allow the concerned workman to join his duties. It has been submitted further that the sponsoring union at the time of placing their claim did not submit any paper to establish that the concerned workman is that person who was transferred from Gopalichak Colliery to Bhagaband Colliery by order dt. 11-2-84. It has been submitted further that the concerned workman inspite of receiving the order of transfer did not join new assignment at Bhagaband Colliery. As such he was not a workman of Bhagaband Colliery at any point of time. The present dispute on behalf of the concerned workman could be considered if he was able to prove his genuinity. Neither the union nor the concerned workman submitted any authentic document relying on his whereabouts from 1984 to 1991. The management submitted that whenever a workman leaves his employment with own volition for a period of more than 3 years it should be presumed that he abandons his service voluntarily. As the concerned workman abandoned his service for 3½ years and did not keep any communication with the management it is conclusively established that he had abandoned his service with his own volition for the reason best known to him. The management further submitted that the post remained vacant for a long period and they made its arrangement to fill up the vacancy. As the concerned workman did not carry out the order of his transfer and abandoned his service he lost his right to claim for his employment. Accordingly, the management has prayed for passing an Award to the effect the concerned workman is not entitled to get any relief and for which his demand should be rejected.

4. The points for decision in this reference are :—

“Whether the action of the management of Bhagaband Colliery of M/s. BCCL in not allowing Shri Ramashish Bhuia to resume his duty is justified ? If not, to what relief the workman is entitled to ?”

FINDINGS WITH REASONS

5. The concerned workman in order to substantiate his claim examined himself as witness. The management on the contrary also examined one witness in support their claim. There is no dispute to hold that the concerned workman Ramashish Bhuia was originally an employee of Gopalichak Colliery. There is also no dispute to hold that the said Ramashish Bhuia along with 24 others received an order of transfer from the management and by the said order they were directed to join at Bhagaband Colliery by 15-2-84. It is the contention of the concerned workman that after receipt of the said order of transfer he went to join his duties at Bhagaband Colliery but he was not allowed to join there and for which he returned back to his original place of posting. At Gopalichak Colliery the authority also did not allow him to work. In this way he loitered hither and thither for 3/4 months but thereafter as he could not join there he left for his home. It has been disclosed by the concerned workman that the management intentionally did not allow to join there. On the contrary the management submitted categorically by adducing evidence that after receipt of the order of transfer the concerned workman at all did not return to the place of posting i.e. at Bhagaband Colliery, with a view to resume his duties. On the contrary he left for his native village and remained there till 1989. Thereafter in the year 1991 the sponsoring union of the concerned workman placed demand for allowing the concerned workman to resume his duties but neither the sponsoring union nor the person concerned could be able to establish his identity. As a result, the management has raised question if the person who is demanding for job is the original person i.e. Ramashish Bhuia. The management further submitted that according to the procedure of the management if an employee abandones his service for more than 3 years it should be deemed that he has left his service. The management further submitted that as the post remained vacant for a long period they filled up the same by recruiting independent workman. As such at this stage the claim of this person finds no basis at all. Now the point for consideration is if actually the management disallowed the concerned workman to resume his duties even on the basis of his order of transfer. It is the specific contention of the management that after receiving letter of transfer the concerned workman never attended the office of the management to report for duty. However, it was rebutted by the concerned workman. The concerned workman in course of his cross-examination, however admitted that he never submitted anything in writing before the authority of the management that he was not allowed to join his duties at Bhagaband Colliery. The concerned workman during his cross-examination admitted that he did not submit any

application to the authority seeking permission to join his duties at Bhagaband Colliery. He also admitted that other employees who were also transferred to Bhagaband Colliery along with him by the same order of the management also joined there. Considering the evidence of the concerned workman it is clear that he did not submit any application when he was not allowed by the management to join there on the basis of transfer order. Onus absolutely lies on the concerned workman to establish that after receiving the said order of transfer he went to his new place of posting and reported for his duty. Unless and untill this fact is established there is no scope to uphold his contention. The concerned workman admitted that he took attempt for his joining at new place of posting for 3/4 months. Thereafter when he failed to join there he left for his native place. It is clear considering the evidence of both sides that after a lapse of long years the concerned workman has raised this dispute. No satisfactory explanation is forthcoming before the Court why he kept himself mum for such a long period. In course of evidence the concerned workman also has failed to produce a single scrap of paper to show that he is that person who received the order of transfer from Gopalichak Colliery to Bhagaband Colliery. As such the question of genuinity of the claim of the person in question comes to light and the concerned workman also cannot deny his responsibility to establish the fact that he is Ramashish Bhuia who was an employee of Gopalichak Colliery and by order of transfer was directed to join at Bhagaband Colliery. The claim of the management cannot be wiped out, untill and unless the concerned workman is able to substantiate his claim beyond all reasonable doubt. It is not expected that the management for years together will wait for the workman for his joining. There are some norms which the management follow to maintain the administration properly. It is seen that the concerned workman acted as per his choice which cannot be accepted at all.

6. As such after careful consideration of all the facts and circumstances I hold that the concerned workman has failed to justify his claim with all satisfaction. I consider that the management did not commit any illegality in disallowing the concerned workman to join his duty in view of the facts which they relied on. I consider that by doing so the management did not commit any illegality and impropriety. There is also no scope to say that the principles of natural justice was also violated by the management. Under the circumstances, the following Award is rendered :—

“The action of the management of Bhagaband Colliery of BCCL in not allowing Shri Ramashish Bhuia to resume his duty is justified. Consequently, the concerned workman is not entitled to any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का०आ० 2375.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में. बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/233/94-आईआर (सी-I)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2375.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. II), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen which was received by the Central Government on 16-8-2001.

[No. L-20012/233/94-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT
DHANBAD

Present : Shri B. Biswas,

Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 22 OF 1996

BETWEEN

PARTIES: Employers in relation to the
management of Block II Area
of M/s. BCCL and their
workman.

APPEARANCE:

On behalf of the workman : Shri D. Mukherjee, Advocate
and Shri K. Chakravorty,
Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

State : Jharkhand : Industry : Coal.

Dated, Dhanbad, the 27th July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of
the powers conferred on them under Section 10(1)(d) of

the I. D. Act, 1947 has referred the following dispute to
this Tribunal for adjudication vide their Order No. L-20012/
233/94-I.R. (Coal-I), dated the 27th February, 1996.

SCHEDULE

"Whether the demand of the Union for revision of
the date of birth of Shri Abhi Mahanti, Quarry/Miner
Loader by the management of Block II Area of M/s.
BCCL is justified ? If so, to what relief is the
concerned workman entitled ?"

2. The case of the concerned workman as per W.S.
in brief is as follows :—

The concerned workman in his W.S. submitted that
he was originally appointed as permanent Miner/loader at
Benedih Colliery on 28-1-73. At the time of appointment
his age was in the Statutory Form B Register recorded as
27 years as on 6-12-74 i.e. the date of birth was recorded as
6-12-47. Thereafter the concerned workman was transferred
to Nudkhurkee Colliery in the year 1975 and during his
service there the management of the said colliery served
him service excerpt wherein his date of birth was also
recorded as 6-12-47. He further submitted that his date of
birth in other records also was recorded as 6-12-47. The
concerned workman submitted that as per decision taken
by the Central Consultative meeting with all Central Trade
unions it was agreed upon that the entries recorded in the
service excerpt shall be final if not objected to. In spite of
the aforesaid fact the management illegally and arbitrarily
issued notice of superannuation with effect from 1-12-93.
Against that arbitrary decision of the management in the
matter of his superannuation with effect from 1-2-93 he
raised his objection but the management did not consider
necessary to do the needful in the matter and accordingly
finding no other way he has raised this industrial dispute
resulting reference to this Tribunal.

3. The management on the contrary after filing W.S.-
cum-rejoinder have denied all the claims and allegation
which the concerned workman asserted in his W.S. It has
been submitted by the management that date of birth/age
recorded in the Form B Register maintained under Section
48 of the Mines Act read with Rules 77 of the Mines Rules
becomes conclusive so far the age of the concerned
workman is concerned for the purpose of time of
Management submitted that was superannuation. The
service record of the concerned workman was statutorily
maintained according to the provision of law, the
correctness of the entries made therein cannot be
challenged at the time of his retirement or after his
retirement. The management submitted that service
particulars of the concerned workman maintained by the
Block II Area upto 21-2-92 indicated that the date of birth
of the concerned workman was 31-1-33 but the said date
of birth was penned through and 6-12-47 was recorded by
manipulation and the concerned workman relying on that
date of birth which was recorded by way of manipulation

has demanded for correction of age by raising the present dispute. The management further submitted that the concerned workman during his service period did not raise any dispute regarding the correction of age and has raised the present dispute only in 1933 when he received his letter of superannuation with effect from 31-1-93. It has been further submitted that as the concerned workman has already been superannuated with effect from 31-1-93 the present reference for revision of date of birth does not and cannot arise. The management submitted further that the concerned workman worked at Kessurgarh Colliery and was subsequently transferred to Benedih Colliery and at the time of his superannuation he worked at Block II Area. It has been alleged by the management that taking advantage of transfer from one colliery he did manipulation and got his date of birth entered as 6-12-47 in some of the records subsequently and relying on the same has raised this industrial dispute. Accordingly the management has submitted their prayer for passing Award holding that the concerned workman is not entitled to any relief.

4. The points for my consideration in this reference are :—

“Whether the demand of the Union for revision of the date of birth of Shri Abhi Mahanti, Quarry/Miner Loader by the management of Block II Area of M/s. BCCL is justified ? If so, to what relief is the concerned workman entitled ?”

FINDINGS WITH REASONS

5. The concerned workman in order to substantiate his claim examined himself as witness while the management also examined one witness to rebut the claim of the concerned workman. From the evidence of the concerned workman it transpires that initially he was appointed at Benedih Colliery as Miner/Loader. At the time of his entry in the said service his date of birth was recorded in the Form B Register as 27 years as on 6-12-74. Thereafter from Benedih Colliery he was transferred to Katras. This witness i.e., the concerned workman further submitted that during the tenure of his service, service excerpt was supplied to him by the management and according to the service excerpt his date of birth was recorded as 6-12-47. In other relevant records namely the C.M.P.F. and I.D. card his date of birth was also recorded as 6-12-47. But inspite of all these facts the management issued notice of superannuation with effect from 1-2-93. It has been alleged by the concerned workman that the said notice of superannuation issued by the management was not only illegal and arbitrary but also against the principles of natural justice. The management on the contrary submitted that the claim of the concerned workman relating to his date of birth finds no basis at all. Relying on Form B Register the management submitted that according to the

Form B register the age of the concerned workman was 40 years as on 31-1-73. The Form B register during evidence of MW-1 was marked as Ext. M-1. This witness disclosed that the concerned workman was superannuated on the basis of entry made in the Form B register. During cross-examination this witness i.e. MW-1 admitted that he was not present when the Form B Register in respect of the concerned workman was filled up. The Form B Register was written actually after nationalisation of coal industries. The Form B Register Ext. M-1/1 shows clearly it was prepared by the management of Nudkharkee Colliery on 29-6-86. It is the contention of the concerned workman that he was transferred to the said colliery in the year 1975. According to the contention of the management Form B register contains the service particulars of the concerned workman and it is filled up when the concerned workman entered into his service. If this fact is taken into consideration the management cannot exonerate their responsibility to explain why entries in the Form B register in respect of the concerned workman was filled up on 29-6-86 particularly when he was transferred to that colliery in the year 1975 i.e. after nationalisation of the collieries. From another Form B register Ext. M-1 it transpires that age of the concerned workman in the same was recorded as 40 years. No date of birth was recorded there. From the copy of this Form B it cannot be ascertained actually when and in which colliery under the management the same was prepared. The question which has been cropped up here is how exact date of birth 31-1-33 was recorded in the Form B Register marked as Ext. M-1/1 while his age in another Form B recorded as 40 years. It is not the case of the management that exact date of birth in the Form B Register Ext. M-1/1 was recorded according to the particulars furnished by the concerned workman on 29-6-86. Therefore, the management cannot avoid responsibility to clarify actually how they have got that date of birth of the concerned workman. The management in course of hearing admitted that to avoid dispute in future in respect of age and other service particulars service excerpts from Form B register were supplied to the concerned workman. A copy of the service excerpt of the concerned workman during evidence was marked as Ext. W-1. From Ext. W-1 it transpires that the date of birth of the concerned workman was recorded as 6-12-47. This service excerpt was prepared on the basis of Form B Register. The management did not deny in course of hearing the genuinity of the service excerpt issued to the concerned workman. The same was also issued on 18-3-86 i.e. prior to preparation of Form B Register (Ext. M-1/1) on 29-6-86. Therefore, it speaks clearly that this Form B Register Ext. M-1/1 was prepared subsequently suppressing the original Form B register where the date of birth of different workmen including the concerned workman were recorded. Apart from the service excerpt the concerned workman also relied on the service particulars issued by the management under signature of the Manager, Benedih

Colliery dt 21-1-92 From the said service particulars it transpires that date of birth of the concerned workman was recorded as 6-12-47 striking down the date of birth as 31-1-33 It is the allegation of the management that taking advantage of the transfer of the concerned workman from one colliery to another he did some manipulation and got his date of birth entered as 6-12-47 and in some of the records subsequently prepared and relying on the same he raised this industrial dispute The management has brought specific allegation against the concerned workman relating to the manipulation of date of birth But inspite of claiming so the management has failed to produce a single scrap of paper to that effect It is seen that service particulars of the concerned workman Ext W-1 was prepared and duly signed by the Accountant/Bill Clerk, Time Keeper, leave clerk, LTC Clerk, PM/Dy PM and Manager/Superintendent If the contention of the management is taken into consideration there is reason to believe that all the officials who signed the salary service particulars stood by the side of the concerned workman in the matter of manipulating his date of birth If it is so done in that case there is reason to believe that each and every staff of the management are unreliable and untrustworthy, which I think is unbelievable Salary and service particulars was issued on 21-1-92 while service excerpt was issued on 18-3-86 These two documents find a long gap between each other The service excerpt echo the date of birth of the concerned workman recorded in the service particulars The service excerpt was prepared prior to the Form B Register which the management relied on Ext M-1/1 I have already discussed relating to the genuinity of this Form B Register Ext M-1/1 There is no dispute to hold that the service excerpts is taken into consideration as authentic document where particulars of the concerned workman are recorded It is the contention of the concerned workman that immediately when he received notice of superannuation with effect from 1-2-93 he made his representation but the management did not give any importance to the same for which he was illegally superannuated with effect from 1-2-93 Learned Advocate for the management on the contrary submitted that at the sag end of the service the concerned workman raised this dispute Moreover the concerned workman has already retired from service and for which his claim cannot be entertained at all The notice of superannuation was given some months before the date of his superannuation Naturally it was not possible on the part of the concerned workman to submit any representation raising dispute of his age because of the fact that he had no dispute in his mind relating to the same This concerned workman relied on the service excerpt and salary and service particulars apart from his I D Card and other official records recorded relating to is date of birth and also date of his superannuation The dispute appear to be very gross in nature Naturally when after receipt of the notice of superannuation the concerned workman raised dispute

relating to his age, the management had the scope to send the concerned workman before the Apex Medical Board for verification of his age but inspite of getting opportunity the management did not conser to do so On the contrary the management arbitrarily and whimsically ignoring the representation of the concerned workman superannuated him with effect from 1-2-93 The service excerpt supplied to the concerned workman, his I D Card and salary and service particulars are quite different in relation to the Form B register in respect of the age recorded therein It is the claim of the concerned workman that to wipe out such discrepancy and anomalies immediately he brought the matter to the notice of the management On the contrary as the management became very much adamant they putting the allegations of manipulation and malpractices superannuated him illegally and arbitrarily

6 After careful consideration of all the facts and circumstances I find sufficient ground to hold that the management acted illegally and arbitrarily though all the documents were supplied by the management to the concerned workman apart from Form B Register Therefore, it was the responsibility of the management to decide which document was genuine in the matter of recording the age of the concerned workman but they did not consider to do so The management in course of hearing has failed to establish the allegation in the matter of malpractices and manipulation brought against the concerned workman for which I do not rely aspersion made by the management against the concerned workman On the contrary in view of my discussion above there is reason to believe that it was the management who made some mischief in the matter of recording the date of birth in the Form B Registers Therefore, considering all aspects carefully I hold that the management not only acted illegally and arbitrarily but also did not follow the principles of natural justice in superannuating the concerned workman inspite of receiving his representation relating to his date of birth I, therefore, hold that the claim of the concerned workman stands on cogent footing for which he is entitled to get which he has prayed In the result, the following Award is rendered —

“The demand of the Union for revision of the date of birth of Shri Abhi Mahanti, Quarry/Miner Loader by the management of Block II Area of M/s BCCL is justified Consequently, the management is directed to reinstate the concerned workman in service immediately considering his date of birth as 6-12-47 The management is also directed to pay all his dues (wages etc) from 2-2-93 till date of his reinstatement ”

The management is directed to implement the Award within three months from the date of its publication in the Gazette of India

B BISWAS, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

SCHEDULE

का०आ० 2376.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/274/92-आई आर (सी-1)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2376.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No II), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen which was received by the Central Government on 16-8-2001.

[No. L-20012/274/92-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT
DHANBAD**

PRESENT

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 89 OF 1993

BETWEEN

PARTIES: Employers in relation to the Management of South Jharia Colliery of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Shri R.C. Jha, Advocate.

State : Jharkhand ~ Industry : Coal.

Dated, Dhanbad, the 25th July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (274)/92-I.R. (Coal-I), dated, the 9th July, 1993.

“Whether the action of General Manager, Kustore Area No VIII of M/s. BCCL, P.O. Kustore, Dist. Dhanbad in dismissing Shri B.P. Singh, Driver is justified? If not, to what relief the workman is entitled?”

2. The case of the concerned workman according to W.S. submitted by him in brief is as follows :—

The concerned workman in his W.S. submitted that on 26-5-87 the management relying on mere suspicion issued a chargesheet with the allegation of theft, fraud and dishonesty in connection with the company's business or property. The main contention of the charge was that he did not distribute coal entrusted to him by the management to the workmen for their domestic use. On the contrary it was unloaded in the Brick Bhatta of Mahendra Lal at Ragnubasti near Bhuli Basti. It was further alleged in the said chargesheet that on the same day at about 12 O'clock the aforesaid coal was recovered with the help of A.K. Trivedi. On receipt of that chargesheet the concerned workman submitted his reply denying all the allegations in question. The concerned workman further submitted that the management ignoring his reply appointed one Enquiry Officer to hold enquiry relating to the allegation based on the chargesheet and the Enquiry Officer without making any proper enquiry found him guilty and submitted his report before the appropriate authority and the appropriate authority also relying on such biased and irregular report submitted by the Enquiry Officer dismissed him from service illegally and arbitrarily. The concerned workman submitted that the said order of dismissal was against the principles of natural justice and accordingly he has prayed for passing an Award directing the management to reinstate him in service with full back wages.

The management on the contrary after filing W. S. - cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his W.S. It has been submitted by the management that the concerned workman along with Kailash Singh Munshi were deputed to distribute coal for domestic use to 19 workers under the management at Kustore area under Bhuli Township as per Challan No. 57798 dt. 25-5-87. The said coal weighing about 8 tonne was loaded on truck No. BH-1935. Thereafter the concerned workman was by way of theft, fraud and dishonest intention instead of distributing coal to the workers unloaded the same at Brick Bhatta of Mahendra Lal at Rangunia Basti for illegal gain. It has been alleged by the management that the concerned workman not only took attempt to misappropriate the property of the company but also had clear malafide intention to deprive the poor workers from their legitimate claim of essential commodities to maintain their livelihood. The said coal was recovered on the same day at about 12 O'clock with the help of

Shri A.K. Trivedi, S I (WW) Bhuli township. The management further submitted that the concerned workman in his reply to the chargesheet given to him admitted this fact of misappropriation of coal which was handed over to him for distribution amongst the workers. It has been further disclosed by the management that the concerned workman for wrongful gain not only misappropriated the property but also intended to deprive the workers from their legitimate claim of essential commodities to maintain their livelihood. The management further submitted that as the reply to the chargesheet was far from satisfactory, the Enquiry Officer was appointed to take up enquiry in the matter. The Enquiry Officer conducted the enquiry maintaining legality and propriety. During the enquiry the allegation which was brought against the concerned workman as per Chargesheet was established. The management further submitted that the concerned workman committed misconduct for his act and thereby violated specific provision of Standing order applicable and on just and proper ground maintaining propriety and natural justice he was dismissed from service. The management further submitted that in dismissing the concerned workman no illegality or impropriety on their part was committed. Accordingly the management have prayed for passing an Award to the effect that the order of dismissal of the concerned workman was justified, valid and proper and he is not entitled to get any relief which he has prayed for.

4. In course of hearing a preliminary issue was raised if the domestic enquiry held by the Enquiry Officer was legal, valid and also it was done in accordance with the principles of natural justice. My Predecessor-in-office vide order No. 51 dt. 12-5-99 held that the domestic enquiry was fair and proper as in course of hearing learned Advocate for the concerned workman did not challenge the fairness of the domestic enquiry.

5. The points for decision in this reference are. —

“Whether the action of the General Manager, Kustore Area No. VIII of BCCL P.O. Kustore, Dist. Dhanbad in dismissing Shri B. P. Singh, Driver is justified? If not, to what relief the workman is entitled?”

DECISIONS WITH REASONS

6. It is admitted fact that the concerned workman was a Driver under the management. The specific contention of the concerned workman is that the management issued a false chargesheet against him with false allegation. He submitted that in response to the chargesheet he gave his reply but in spite of giving reply the management being dissatisfied appointed one Enquiry Officer to hold enquiry. Thereafter the said Enquiry Officer illegally and arbitrarily conducted the said enquiry and found him guilty and submitted his report before the appropriate authority and the appropriate being satisfied

with the enquiry report dismissed him from service. The order of dismissal during evidence of MW-1 was marked as Ext. M-7. The chargesheet given to the concerned workman and reply of the chargesheet given by the concerned workman also during evidence of MW-1 were marked as Ext. M-2 and M-5. It is the specific allegation of the management that on 25-5-87 the concerned workman was deputed to distribute 8 tonnes of coal amongst the 19 workers at Rangoni Basti near Bhuli Basti. The said coal was loaded in Truck No. BHW-1935 along with Challan bearing No. 57798. The concerned workman thereafter left the office of the management with that truck loaded with coal along with Kailash Singh a Munshi. It has been alleged that instead of distributing the coal to the workers the concerned workman with dishonest intention misappropriated the coal and unloaded the same at the Brick Bhatta of Mahendra Lal and thereby committed serious misconduct violating clause 29.2 of the Certified Standing Order. I have considered the reply given by the concerned workman which during hearing was marked as Ext. M-5. In para-1 of the reply the concerned workman admitted that on 25-5-87 he was deputed on his duty with truck bearing No. BHW-1935. In para-2 he also admitted that at that very time one Kailash Singh Munshi and Pritam Singh, Driver were with him. In para-3 he further admitted that the said truck was loaded with coal for distribution at Bhuli township. In para-4 the concerned workman submitted that according to the instruction of Pritam Singh coal was unloaded but he cannot say where the said coal was unloaded though according to his opinion it was a place at Bhuli Township. Admitting all these facts the concerned workman denied the other charges brought against him. Therefore, considering the reply of the chargesheet it is clear that on 25-5-87 the concerned workman was directed to carry 8 tonnes of coal for its distribution amongst the workers of the management at Bhuli Area by a truck No. BHW-1935. It is the contention of the concerned workman that he unloaded the truck under instruction of Pritam Singh but during enquiry in spite of getting opportunity the concerned workman did not examine Pritam Singh to establish the veracity of the claim. Further it is clear from his submission that though he was entrusted to distribute coal amongst workers of Bhuli Town area he did not do so. On the contrary he unloaded the coal at a place under instruction from Pritam Singh. This very admission of the concerned workman shows clearly that violating the specific instruction of the management he acted illegally. During enquiry Mr. A.K. Gaur Superintendent of Mines, Shri A.K. Trivedi, S.I. (W/W), Shri S. P. Singh, P.M. and also the concerned workman and Kailash Singh were examined. A.K. Gaur during giving his statement disclosed that on 25-5-87 through Challan Bearing No. 57798 and Truck No. BHW-1935 coal was sent for domestic use of the employees at Bhuli Township. This witness confirmed that the concerned workman and Kailash Singh were deputed to

distribute the said coal amongst workers on that date. Shri A.K. Trivedi S.I. (WW) during giving his statement disclosed that on 25-5-87 at about 1.30 P.M. he received information from Madan Singh of Rajapur Colliery to the effect that B.P. Singh and Kailash Singh had been engaged on selling coal to Mahendra Lal at Rangoni Basti which was brought in a truck No. BHW-1935. On getting information he rushed to the spot and found the truck there. He also found coal dumped there but the concerned workman by that time fled away from the spot. Accordingly he arranged for a guard and informed the matter to the Dy. Manager (Administration) Bhuli Township. Thereafter different officials came there and ultimately the said coal was re-loaded and it was taken back to Rajapur through Truck No. BHW-9085. Shri Kailash Singh and B.P. Singh were examined by the Enquiry Officer and they made contradictory statement. It is seen that the concerned workman was given opportunity to cross-examine the witnesses but in spite of getting that opportunity no incriminating material came out relying on which there is scope to say that the witnesses on the part of the managements made false statement before the Enquiry Officer. I have considered the enquiry report submitted by the Enquiry Officer carefully and I do not find any illegality or impropriety in the same. The said enquiry report was forwarded to the disciplinary authority and the disciplinary authority after considering all papers and report issued the dismissal order against the concerned workman vide letter dt. 18-12-1990/3-1-91.

7. Act of misconduct has been incorporated in Clause 26 of the Certified Standing Order. According to clause 26(i)(ii) theft fraud and dishonesty in connection with Company's business or property amounts to misconduct. According to Clause 29(i)(ii)(c) the management can pass dismissal or discharge order from service if the misconduct of the concerned workman is established. Under clause 26(i) (ii). It is the specific contention of the management that 8 tonnes of coal loaded in the truck referred to above was handed over to the concerned workman and Kailash Singh, Munshi as per Challan for its distribution to 19 workers of the management for their domestic use. The said property was absolutely the property of the management. The concerned workman instead of distributing the said coal misappropriated the same for their personal gain with dishonest intention. The allegation according to the management was very serious in nature as it created disfaith and distrust in their mine against the concerned workman. The management dismissed the concerned workman taking it in view that a distrusted person cannot be entrusted in future with any responsible job and that with such disfaith it was not possible on their part to keep the concerned workman in employment. Learned Advocate for the management further submitted that the order of dismissal was legal proper and in accordance with the principles of natural justice taking

into consideration that it will be an example amongst the workers to make them disciplined and to remain honest and sincere. I have considered all the relevant papers of the domestic enquiry including reply of the concerned workman and also heard learned Advocate for the management. I am satisfied that the enquiry was conducted by the Enquiry Officer properly and with all fairness. It has also been established that the concerned workman was directly involved in misappropriating and property of the management for his personal gain without their knowledge and consent.

The offence committed by the concerned workman is very serious in nature and definitely his act created disfaith and distrust in the minds of the management. As such after careful consideration of all the facts and circumstances I hold that the management did not commit any illegality or impropriety in dismissing the concerned workman from service for his serious misconduct. I do not find anything contrary to say that the said order of dismissal issued by the disciplinary authority was against the principles of natural justice. In the result, the following Award is rendered :—

“The action of General Manager, Kustore Arca No VIII of BCCL, P.O. Kustore, Distt. Dhanbad in dismissing Shri B.P. Singh, Driver is justified. Consequently the concerned workman is not entitled to any relief.”

B.P. SINGH, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का. आ. 2377.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. सी. सी. एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. -II), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/278/90-आईआर (सी-I)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2377.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. II), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 16-8-2001.

[No. L-20012/278/90-IR(C-I)]

N P. KESVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2)
AT DHANBAD

PRESENT

Shri B. Biswas

Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 57 of 1991

PARTIES : Employers in relation to the
management of CCL and
their workman.

APPEARANCES:

On behalf of the Workman : None

On behalf of the Employers : Shri B. Joshi,
AdvocateState : Jharkhand Industry : Coal
Dhanbad

Dated, the 31st July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/278/90-I.R. (Coal-I), dated, the 19th March, 1991.

SCHEDULE

“Whether the action of Central Coalfields Limited management in not offering employment to dependent son of Sri Adit Ram under para 9.4.3 of NCWA-III after he was declared medically unfit by the Medical Board on 25-8-84 and which was duly approved by the Competent Authority of CCL Hqrs. is justified? If not, to what relief the workman is entitled?”

2. The case of the concerned workman in brief is as follows :—

The concerned workman in his W.S. submitted that he was a Munshi at Karketta Project of M/s. CCL for a long period. He alleged that as he was a member of the concerned union the management was very much dissatisfied with him and was on the look out to victimise him in any manner. He submitted that on the ground of his ailment he submitted several representations to the management for his medical examination but the management continuously ignored his prayer. However, subsequently the management sent him

to the Apex Medical Board for determination of his medical fitness. After medical test the Company's Medical Board on 25-8-84 declared him medically unfit and accordingly on the basis of their medical report he submitted his representation before the management for employment of his dependent son Shri Aidit Ram as per provision of NCWA-III but the management ignored his prayer illegally and arbitrarily and also without following the principles of natural justice and thereafter superannuated him from his service. Accordingly the concerned workman has prayed for passing an Award directing the management to provide employment to the dependant son of the concerned workman with retrospective effect.

3. The management on the contrary after filing W.S.-cum-rejoinder has denied all the claims and allegation which the concerned workman asserted in his W.S. It has been submitted by the management that the date of birth of the concerned workman was 16-10-24. The concerned workman was superannuated with effect from 16-10-84 by letter dt. 26-9-84. It has been admitted by the management that the concerned workman was sent for medical examination along with others as per provision of Mines Rule, 1955 and he appeared before the Medical Board on 25-8-84. The Medical Board finalised the report on 25-9-84 and sent the same to the management of different collieries on different dates. By that time the management issued a notice of superannuation of the concerned workman with effect from 16-10-84. The management submitted that the report of the Medical Board relating to medical fitness does not automatically terminate the service of a workman. Before terminating a workman from his service, his conditions relating to permanent disablement as well as nature of job being performed by him are considered and the management takes the final decision if the particular workman can be retrained in service or may be terminated. The management submitted further that the concerned workman was a Munshi performing Clerical Job and the nature of diseases detected was not of such nature which could abstain him to perform his clerical job. The management allowed him on the job till the date of his retirement and he received his payment upto the date of retirement. The management submitted that the demand for employment of dependants cannot be made as a matter of right and any provision contained in service rule, agreement or circular conferring a right on a workman to get his dependant employed becomes ultravires the Constitution of India and no workman employed in a public sector undertaking can demand for his employment. Such employment can only be given on compassionate ground. The provision of NCWA can only be utilised to aid in deciding the existence of compassionate ground for providing employment to the dependant employees. It has also been submitted by the management that in no circumstances a retiring employee can get such benefit as he completed the full term of his employment and gets all the benefits under the management including gratuity, provident fund etc. at the time of his

retirement. It has been disclosed that the services of the concerned workman was not terminated by the management on medical ground and for which the claim of the concerned workman finds no justifiable ground. In the result, the management has prayed for passing an Award rejecting the claim of the concerned workman.

4. The points for consideration in this reference are :—

“Whether the action of Central Coalfields Limited management in not offering employment to dependent son of Sri Adit Ram under para 9.4.3 of NCWA-III after he was declared medically unfit by the Medical Board on 25-8-84 and which was duly approved by the competent authority of CCL Hqrs, is justified? If not, to what relief the workman is entitled?”

DECISION WITH REASONS

5. The concerned workman in spite of getting scope did not consider necessary to adduce evidence and accordingly the management did not consider to adduce his evidence to counter act the claim of the concerned workman. It is the specific contention of the concerned workman that he was suffering many diseases and for which he was unable to perform his duties and on the said ground he submitted several representations before the management to send him before the Apex Medical Board for his medical examination and fitness. But the management did not pay any heed to his request. To this effect in course of hearing the concerned workman has failed to submit a single scrap of paper. Naturally the claim of the concerned workman about submitting several representations before the management finds no basis. It is admitted fact that the concerned workman was sent to the Company's Medical Board for examination of his medical fitness on 25-8-84. It is also submitted that the Medical Board declared him medically unfit and sent report to that effect. It is the contention of the management that the date of birth of the concerned workman was 16-10-24 and his date of superannuation was 16-10-84. He was sent to the Medical Board on 25-8-84 i.e. within a short period from the date of his superannuation. The management further disclosed that they received medical report after 22-9-84 i.e. about one month before the date of superannuation. It is admitted fact that the concerned workman was a Munshi. The management submitted that the work of Munshi is to carry on clerical jobs. The nature of ailment which the concerned workman was suffering from was not of so much in aggravated form which de-barred him from carrying on his work. Actually the concerned workman worked under the management till the date of superannuation and for which

there was no reason on the part of the management to terminate him from service. Clause 9.4.3 of NCWEA-III speaks clearly “The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned.” It is seen that the concerned workman continued his work till the date of superannuation in spite of his medical fitness. It shows therefore clearly that his unfitness was not so fatal that he was debarred to carry on his service till the date of his superannuation. The management also did not terminate him from service. On the contrary after the date of superannuation he has received all the benefits accrued from the management. Therefore, on careful consideration of all the facts and circumstances, there is sufficient reason to believe that application of provision of 9.4.3 which the concerned workman has claimed finds no basis. In the result, the concerned workman's claim for employment of his son does not stand on cogent footing and for which he is not entitled to get any relief. In the result, the following Award is rendered :—

“The action of Central Coalfields Limited management in not offering employment to dependent son of Sri Adit Ram under para 9.4.3 of NCWA-III after he was declared medically unfit by the Medical Board on 25-8-84 and which was duly approved by the competent authority of CCL Hqrs, is justified. Consequently, the concerned workman is not entitled to any relief?”

B. BISWAS, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2378.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. -II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं एल-20012/311/99-आईआर (सी-I)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2378.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central

Government Industrial Tribunal, (No II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 16-8-2001.

[No L-20012/311/99-IR(C-I)]

N P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO 2)
AT DHANBAD

PRESENT

Shri B. Biswas

Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I D Act, 1947.

REFERENCE No. 30 OF 2000

PARTIES : Employers in relation to the
management of Bagdigi Colliery of
M/s BCCL and their workman.

APPEARANCES:

On behalf of the Workman : Shri D. Mishra,
Branch Secretary,
KIMP Bagdigi Colliery.

On behalf of the Employers : Shri D. K. Verma,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 23rd July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/311/99-I.R. (C-I), dated, the 28th January, 2000

SCHEDULE

“Whether the action of management of Bagdigi Colliery of Lodna Area of M/s BCCL in dismissing Shri Laloo Bouri from the services of the company w.e.f 3-6-96 is justified ? If not, to what relief the workman is entitled ?”

2 In this reference both the parties appeared before this Tribunal and filed a Memorandum of Settlement under their signature. I heard both the parties on the said settlement and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the said settlement and pass an Award in terms thereof which forms part of the Award as Annexure

B BISWAS, Presiding Officer

FORM-H

(See Rule—58)

Memorandum of Settlement Arrived at Between the
Management of Lodna Area of M/s BCCL and their
workman represented by KIMP union on 26-2-2001

Representing
Management

Representing
Workman/Union

1 Shri UP Singh,
Dy. Chief Personnel
Manager, Lodna Area.

1. Shri Dudeswar
Mishra,
Branch Secretary,

KIMP
Bagdigi Colliery
Branch

2 Shri SK Sinha,
Personnel Manager,
Lodna Area.

2. Shri Lallu Bouri
Ex-Cableman,
Bagdigi Colliery

SHORT RECITAL OF THE CASE

Shri Lallu Bouri, Cableman of Bagdigi Colliery was absenting from his duty without information/prior permission of the Competent Authority from 30-10-95. In the past also he had been absenting from duty without information/prior permission. Accordingly he was issued charge sheet by the disciplinary authority vide No. BCCL/BC/PER/CS/14 dated 1-3-96.

That he also submitted his reply on 2-3-96 and stated that his children was sick he immediately rushed to his native place and was getting treatment from a private doctor Bakura. He also admitted that he could not inform the management which was his mistake. He also prayed and requested for resumption of duty. The disciplinary authority did not find the reply of the concerned workman as satisfactory and ordered for domestic enquiry. The enquiry was conducted in which the concerned workman also participated. During the course of enquiry it was also revealed that during his service period particularly 1991 and onward he had been issued nine charge sheets for unauthorised absence. The management had warned/suspended him on several occasions against the charge

sheet and was allowed to resume duty This time the management gave though on the past conduct of the concerned workman and decided to dismiss him from the service and accordingly he was dismissed.

The matter was raised as an Industrial Dispute by Shri BN Sharma, Vice-President, KIMP which was registered under file No 1/146/98-E-5 dated 8/23-10-98. The conciliation was failed and FOC was sent by the ALC(C), Dhanbad to the Hon'ble Ministry and the same has been referred to CGIT No. II, Dhanbad vide order No. L-20012/311/99-IR(C-1) dated 28-1-2000 The schedule of the same is as under .

"Whether the action of the management of Bagdigi Colliery of Lodna Area M/s. BCCL in dismissing Shri Lallu Bouri from the services of the company we f 3-6-96 is justified if not; what relief the workman is entitled ?"

Since the Hon'ble CGIT No II is closed and till date we have not received any notice in this regard from the Hon'ble Court the matter is pending.

The case was in the meantime, represented at HCCL Hqrs, where the General Manager I/c(P&IR), BCCL, Koyla Bhawan vide his letter No. 1787 dated 18/21-3-2000 intimated that Shri Lallu Bouri, Cableman, Bagdigi Colliery may be re-instated subject to certain conditions. Again General Manager I/c (P&IR) intimated vide letter No. 399 dated 29/30-1-2001 that the competent authority has agreed to re-instate Shri Lallu Bouri with the fact that he has withdrawn his PF money and not gratuity so he may be re-instated on the following terms and conditions as per earlier letter No 1787 dated 18/21-3-2000.

Accordingly Shri Lallu Bouri, Cableman of Bagdigi Colliery is hereby re-instated on the following terms and conditions on which both the parties agreed to

TERMS AND CONDITIONS

1 That, Shri Lallu Bouri will submit his joining report to the Project Officer, Bagdigi Colliery within a period of 15 days from the date of signing of this settlement

2. That he shall not be paid nor he will claim for wages or other consequented benefit for the period from the date he reported absent followed by dismissal and subsequently the actual date of re-instatement i.e. the date on which he will report for duty to the Project Officer, Bagdigi Colliery

3 That, Shri Lallu Bouri will discharge his duty with devotion loyalty after his re-instatement

It was also agreed by both the parties including the workman namely Shri Lallu Bouri that before

reporting duty to the Project Officer Bagdigi Colliery he will file a separate application for withdrawal of his case which is pending before CGIT No. II, Dhanbad The said application will also be witnessed by responsible union representatives of KIMP not below the rank of Branch Secretary and Treasurer.

4 That, after signing this settlement their remains nothing to subsists

That a copy of the settlement shall be filed by the management before the Hon'ble Tribunal CGIT No. II, Dhanbad also a copy of the same shall be sent to the ALC(C), Dhanbad for getting it registered under the law i c I D. Act, 1947.

Management side

Workman's side

Shri UP Singh,
Dy. Chief Personnel
Manager, Lodna Area.

Shri Dudheshwar Mishra,
Branch Secretary, KIMP
Bagdigi Colliery Branch

SK Sinha,
Personel Manager,
Lódna Area.

Lallu Bouri
Ex-Cableman,
Workman concerned

Witnessses (1)

Signatures illigeble

(2)

Signatures illigeble

नई दिल्ली, 20 अगस्त, 2001

का. आ. 2379.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. टाटा आयरन एण्ड स्टील कं. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. -II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/341/91-आईआर(सी-I)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2379.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Tata Iron and Steel Co and their workman, which was received by the Central Government on 16-8-2001.

[No. L-20012/341/91-IR(C-I)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO 2)
AT DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer

**In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947**

REFERENCE NO. 172 OF 1991

**PARTIES : Employers in relation to the management
of TISCO Ltd. and their workman.**

APPEARANCES :

On behalf of the Workman : Shri S.N. Goswami,
Advocate

On behalf of the Employers : Shri B. Joshi,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 27th July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012 (341)/91-I.R. (Coal-I), dated, the Nil.

SCHEDULE

“Whether the action of the management of Jamadoba Colliery Group of M/s. TISCO Ltd. in denying employment to Smt. Kusum Gowalin dependent of late Chhatu Gope Ex-employee of Sijua Colliery is justified ? If not, to what relief the workman is entitled ?”

2. The case of the union who have raised the instant Industrial dispute on behalf of Smt. Kusum Gowalin, wife of late Chhatu Gope Ex-employee of Sijua Colliery as per W S in brief is as follows :—

The prima facie case as per W.S. is that Chhatu Gope was a permanent employee of Sijua Colliery under M/s. TISCO Ltd. as onsetter. He joined his service on 17-4-50 and died in harness on 7-5-86 i.e. after completion of service of 36 years. It has been submitted that Chhatu Gope died

leaving behind Kusum Gowalin his legally married wife as his legal heirs or successor as deceased had no issue. After the death of said Chhatu Gope his widow Smt. Kusum Gowalin submitted her representation for getting her service under the management taking the ground that her husband served the management continuously for 36 years and for which she is entitled for employment in the colliery in place of her deceased husband according to the policy of the management as also as per provision laid down in para 9.4.2 of NCWA-III. It has been alleged that in spite of submitting representation her prayer was ignored by the management and for which being aggrieved by and dissatisfied with the action of the management the union raised this industrial dispute resulting reference to this Tribunal. The concerned union accordingly has prayed for passing an Award directing the management of Sijua Colliery to provide employment to Smt. Kusum Gowalin in place of her deceased husband Chhatu Gope on the strength of completion of more than 36 years of service and in the light of the provision of employment according to para 9.4.2 of NCWA-III.

3. The management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegation which the concerned union asserted in their W.S. It has been submitted by the management that late Chhatu Gope was appointed on 17-4-50 as workman of Sijua Colliery and he expired on 7-5-86. The concerned workman is claiming employment in the capacity of dependent of late Chhatu Gope ascertaining her right as per provision of NCWA-III. The management submitted that they have their own scheme on employment of the dependent of workman which is more favourable than the provision of NCWA-III relating to the employment of the dependents. As per the said scheme such employees who are desirous to get their dependants employed on the strength of their service have to get two of their dependent's name enrolled in the Employees' Dependent's Register as first and second choice if they have completed 15 years of service. In the event of vacancy employment is offered to such employee whose name is registered in the Employees Dependents Register in order of length of service of the Guardian employee. The management further submitted that they are running the Mining industry and employment on female are prohibited inside the mine. Accordingly the management has prescribed male dependents to be employed in the collieries and does not entertain any female dependent of a workman. It has been further submitted that as per the provision of Section 46 of Mines Act no woman shall be employed in any part of the mine which is below ground and in any mine above ground except between the hours 6.00 A.M. to 7.00 P.M. The management further submitted that there is very limited scope of employment of female on the surface and it is difficult to create vacancies for

engagement of female dependents on the surface. It is submitted that every year a large number of workers become entitled for getting their dependent enrolled in the E.D.R. after completion of 15 years of service and most of them will prefer to get their wives enrolled as their dependents both from the point of view of economic and future considerations. It will be impossible to accommodate so many female dependents on a few surface jobs available for women workers. The management further submitted that they had a joint discussion with the recognised unions from time to time and taking into consideration of various facts have prescribed the persons who are considered to be eligible for enrolment as dependent in the E.D. Register. The management in consultation with the recognised union namely R.C.M.S. following its own procedure of employment of dependents and not following the provisions of NCWA-III because of the fact that the scheme of employment of dependent is more favourable than the provision of NCWA. It has been submitted by the management further that late Chhatu Gope during his life time did not nominate any of his dependent for employment in the colliery. He did not get any one eligible person to be enrolled as his dependent and as such no dependant of late Chhatu Gope could be appointed by the management. Disclosing this fact the management submitted further that the concerned lady is not eligible for employment as dependent of late Chhatu Gope as per the company's procedure and she cannot claim employment under the management. Accordingly the management has prayed for passing an Award holding that the action of the management in denying employment to Smt. Kusum Gowalin is legal *bona fide* and she is not entitled to get any relief.

4. The points for consideration in this reference are:—

“Whether the action of the management of Jamadoba Colliery group of M/s. TISCO Ltd. in denying employment to Smt. Kusum Gowalin dependent of late Chhatu Gope Ex-employee of Sijua Colliery is justified? If not, to what relief the workman is entitled?”

DECISIONS WITH REASONS

5. The management in order to substantiate their claim examined two witnesses on the contrary on behalf of the union none was examined. There is no dispute to hold that late Chhatu Gope was an employee under the management, and he worked there as onsetter. He was appointed under the management on 17-4-50 and he died on 7-5-86. According to the service record the said Chhatu Gope was due to retire on 27-7-86. Therefore it is clear that approximately about 3 months before his superannuation he died. However, there is no dispute to hold that he worked under the management for more than 36 years. According to the management policy in such

circumstances one dependent of the deceased worker is liable to get work under the management. It is the contention of the union that Chhatu Gope died leaving Smt. Kusum Gowalin as his only legal heiress as he had no issue. Accordingly as per the provision of the management Kusum Gowalin is entitled to get job on compassionate ground. It has been further submitted that after death of Chhatu Gope his widow i.e. Kusum Gowalin submitted a representation before the management for his employment but it was turned down. It is the contention of the union that in spite of specific provision and policy adopted by the management one dependent entitled to get a job subject to fulfilment of the condition. But in the instant case in spite of fulfilment of condition Kusum Gowalin i.e. the widow of late Chhatu Gope was deprived of getting any employment under the management. The management on the contrary submitted that they are running mining industry and for which employment of female are prohibited inside the mine. Accordingly the management always prescribed male dependent to be employed in the collieries. It has been further submitted that apart from this fact as per provision of Section 46 of the Mines Act no woman shall be entitled in any part of the mine which is below ground and in any mine above ground except between 6 00 A.M. to 7 00 P.M. It has been further submitted that on the surface there is very limited scope for employment of female workers and it is difficult for the management to create vacancy for engagement of female dependents on the surface and for which the case of Kusum Gowalin could not be considered. The management also denied the fact of adopting the policy as laid down in NCWA-III which was agitated by the concerned workman. It has been submitted that they have their own policy in the matter of recruitment of employees dependents and that policy was set up on the basis of joint discussion with the recognised union and that also has been reflected in the NCWAs. Taking into ground that the policy adopted by them are far better than the policy of NCWA in the matter of employment of dependents. During evidence the minutes of the union meeting held with the Executive Director (RM) on 10-2-94 was marked as Ext. M-2. Letter issued by Joint General Secretary, RCMS was marked as Ext. M-4. I have considered both the documents and it is clear that as per Joint meeting management held the right to consider employment of female of deceased employees. Joint General Secretary in his letter agreed unconditionally that the existing employment rules were more favourable and should continue to be enforced. Management by their letter Ext. M-3 have assigned reason for rejection of the prayer of Kusum Gowalin, widow of Chhatu Gope in the matter of her employment. It is fact that late Chhatu Gope served under the management for continuous 36 years. As per own policy decision of the management dependent of the deceased employees accrued right to get an employment under the management. It is contention of the management that in such cases the concerned employees are required to enroll names of their

dependent in the E D R. after completion of their 15 years of service. The management further submitted that in the instant case Chhatu Gope did not enroll the name of his wife as dependent for getting her employment in case of his death and for which though claim accrued they could not consider her prayer. The management also submitted that the scope of employment of female workers in service is very limited and under exceptional cases such prayer is considered because of the fact that there is no scope to provide employment under mine. The letter has also restricted categorically. Submission made by the management cannot be wiped out or brushed aside at all. It is true that due to death of Chhatu Gope claimed for employment of his widow accrued but that claim which was accrued could not be considered as a matter of right before giving employment. Some important aspects are also to be considered carefully. It is also to be looked into if there was any vacancy at the relevant time on the surface to provide employment. No evidence is forthcoming before this Tribunal on the part of the union if any such vacancy existed on the surface at the time of submitting representation by the widow of the deceased. The management for obvious reason did not consider the claim of the widow of the deceased as her name was not enrolled in the E.D.R. The Majority of the Union has adopted the policy set out by the management in the matter of employment. The management has assigned reason for rejecting the prayer of the concerned union as the management maintains its independent policy which has also duly reflected in the NCWA-II and III. There is scope to say that the policy adopted by the management based on cogent footing and has been accepted as good policy. As such at this stage after careful consideration of all the facts and circumstances I do not find any sufficient ground to interfere with the decision of the management in the matter of rejecting the prayer for employment of the widow of deceased workman Chhatu Gope. In the result, the following Award is rendered :—

“The action of the management of Jamadoba Colliery group of M/s. TISCO, in denying employment to Smt Kusum Gowalin dependent of late Chhatu Gope Ex-employee of Sijua Colliery is justified. Consequently she is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का. आ. 2380.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी.एल. के प्रबंधन के सदस्य नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल-20012/366/97-आई आर (सी-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2380.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. II) Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-20012/366/97-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT

Shri B Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I.D. Acts, 1947.

Reference No. 139 of 1998

PARTIES : Employers in relation to the management of Joyrampur Colliery of M/s. BCCL and their workman.

APPEARANCES :

On behalf of the workman : Ram Ratan Ram,
Secretary, Bahujan
Mazdoor Union.

On behalf of the employers : Shri D. K. Verma,
Advocate.

STATE : Jharkhand Industry : Coal.

Dated, Dhanbad, the 2nd July, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No L-20012/366/97-I.R.(C-I), dated the 24th April, 1998.

SCHEDULE

“Whether The Action of the Management of Joyrampur Colliery of M/s. BCCL in dismissing Sh. Gobardhan Bhuiya, Ex-M/Loader from the services of the company w.e.f. 5-3-92 is justified ? If not, to what relief is the workman entitled ?”

2. In this reference both the parties appeared and filed their respective W.S. Subsequently when the reference was fixed for filing documents by the parties, a Memorandum of settlement was filed under their signature. I heard both the parties on the said settlement and I find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said settlement and pass an Award in terms thereof which forms part of the Award as annexure.

B. BISWAS, Presiding Officer

FORM—H

(See Rule—58)

**Memorandum of settlement arrived at between the
MANAGEMENT OF BCCL, LODNA AREA AND SHRI
GOBARDHAN BHUIA, EX-MINOR/LOADER,
JOYRAMPUR COLLIERY.**

PRESENT

On behalf of the management :

1. Shri. H. Surin,
Personnel Manager, Lodna Area
2. Shri AP Singh,
Personnel Manager, Joyrampur

On behalf of the workman :

1. Shri Madhav Chakraborty,
Secretary, RCMS, Joyrampur
2. Shri Gobardhan Bhuia,
Ex-Miner/Loader, Joyrampur

SHORT RECITAL OF THE CASE

Shri Gobardhan Bhuia was charged vide Charge sheet No. BCCL/A/91/2778 dated 12-12-91 for unauthorised absence from duty and after conducting domestic enquiry into the charge sheet and on proved misconduct he was dismissed from the services of the company vide letter No. BCCL/A/92/46 dated 19/28-2-92 w.e.f. 5-3-92. Shri Gobardhan Bhuia appealed before the management for his reinstatement which was approved by the competent authority and communicated to us vide letter No. BCCL : PER : IR : REINSTATEMENT : 2000 : 5071 Dated 20-7-2000 of General Manager I/c (P&IR), BCCL, Koyla Bhawan, Dhanbad.

Shri Gobardhan Bhuia has been reinstated on the following terms and conditions :

TERMS AND CONDITION

1. Shri Gobardhan Bhuia has been found medically fit to perform his duties.
2. Neither Gratuity nor PF has been withdrawn by Shri Gobardhan Bhuia.

3. Shri Gobardhan Bhuia has not gone for any Conciliation case on this issue, if any the same will be withdrawn.
4. Shri Gobardhan Bhuia will discharge his duty with full loyalty and devotion to the management.
5. His identity must be established by the unit concerned.
6. No wages, what-so-ever, will be paid or claimed by the person concerned from the date he reported absent followed by dismissal and subsequently be reinstated.
7. The period of idleness from the date of unauthorised absence till the resumption of duty shall be treated as dies-non. However, the continuity of service will be allowed for the purpose of gratuity only.
8. The dispute is reserved once for all.

(H SURI)	(MADHAVA CHAKRABORTY)
Personnel Manager, Lodna Area	Secretary, RCMS Joyrampur Colliery
(A P SINGH)	(GOBARDHAN BHUIA)
Personnel Manager, Joyrampur Colly	Miner/Loader, Joyrampur

Witness : (1) P.N. Gov P No. 00757778
(2) R.E. Singh 01257584

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2381.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापट्टनम पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय विशाखापट्टनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-2001 को प्राप्त हुआ था।

[सं. एल-34012/6/96-आई आर (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2381.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workman, which was received by the Central Government on 14-8-2001.

[No L-34012/6/96-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE**IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT VISAKHAPATNAM**

Present : Sri C. Sambasiva Rao, M. A. B. L.
CHAIRMAN, Industrial Tribunal
and Presiding Officer, Labour
Court : Visakhapatnam.

Ref. No. L-34012/6/96 IR (Misc.) Ministry of Labour,
Govt. of India dated : 31-3-97.

I. T. I. D. No. 9/97 (C)
Dated 16th Day of September, 1999.

BETWEEN

Sh. K. Annayya Sastry,
Kranti Nagar, Pedawaltair,
Visakhapatnam.

Workman

AND

The Chairman,

Visakhapatnam Port Trust,
Visakhapatnam.-35

Management.

This dispute coming on for hearing before me in the presence of Sri G. Raghunadha Rao, advocate for workman and Sri D. V. Subba Rao, advocate for management Arguments heard and up on perusing the material papers on record, the court passed the following :

AWARD

1. On a reference made by the Central Government U/Sec.10(1) 2A(d) this matter is coming for consideration before this court to pass an Award.

2 The reference is "Whether the action of Management, Visakhapatnam Port Trust in terminating services of Sri K. Annaiah Sastry Tally clerk w.e.f 2-1-91 is justified? If not what relief the workman is entitled to "

3 After receiving the reference the workman submitted the same submission made to the Government. The allegations are the petitioner was a tally clerk in Traffic Department of Port Trust and he is a permanent employee. He rendered service for 22 yrs from 5-3-69 to 2-1-91 removed from service w.e.f. 2-1-91. The Chairman, Visakhapatnam Port Trust who is the Head of the Department, the Traffic Manager in the status of disciplinary authority illegally removed him from service. There was partiality in his case just 15 days earlier to this issue the same discipline appellate authority took back

into service 3 workmen who are removed from service for absence as the co-workmen went on strike for such serious action those 3 workmen are Bangaiah, Guru Murthy and Waddadhi Rama Rao. The contents of sick certificate are not considered. It was alleged Port Medical Officer opinion was not obtained or the sickness certificate for the absence period. Enquiry was not conducted explaining the consequences of the workman is skilled. The Visakhapatnam Port Trust is condoning the absence of 200 workmen which is 10% of employees force. This is the first disciplinary action for removing him service in the Port Trust history from 1933. He was not paid any House Building Advance to save his service to facilitate the FA & CAO to recover from salary. When Asst. Labour Commissioner intervened there is no comment from management. He is capable of discharging various duties in the Traffic department. Only on account of Traffic official along the Traffic Manager causing mental torture resulted in the absence. For the 4th time the Traffic Manager succeeded in removing him from service. He was questioning Traffic Manager because of thousands of rupees lost. On 18-12-95 Traffic Manager indulged in irregular remittance of needed papers pointed out by the workman. Traffic Manager managed a report against workman with back date 6-12-85 as if it is real and it could be sent to Traffic Manager on 7-12-85. Even though the work spot is 100 ft. away from the Chamber of Traffic Manager for the enquiry on charges framed he arranged favourable subordinate official instead of other department officials. The refusal of taking eye witnesses who are supporting the workman resulted the loss of Rs. 20,000 next attempt he created one more. The enquiry report is not proved and thus by Traffic Manager caused loss of Rs.30,000 so his status be resorted with back wages and continuity of service.

4. This is opposed by filing by counter by management denying some allegations. It is admitted this workman is a permanent employee worked from 5-3-69 till 2-1-91 on which day he was removed. Chairman, Visakhapatnam Port Trust is the head of the institution and Traffic Manager is the disciplinary authority. There is no question of partiality and misuse of power. The disciplinary authority imposed punishment after following procedure and after conducting enquiry as per rules. The Chairman as appellate authority confirmed the same on merits. The allegations of workman was taken into service after removal who got on strike did not show the factual background. The facts of the case was different from the present case. The question of non-observation of formalities and not following the rules are not correct. On 18-1-90 he was informed about the enquiry and imputation of misconduct by sending memorandum of charges. It is clearly mentioned that he is absent from duty from 11-9-89 to 12-12-89 unauthorisedly and asked to submit explanation in 10 days. He received charged memo on

19-1-90 but did not submit explanation. After waiting for 2 months no reply was received, on 23-3-90 he was informed of the enquiry proposed to be held an enquiry officer was appointed. It is intimated on behalf of the management Sri B.S. Reddy could appear as presenting officer. The enquiry was fixed on 2-9-90. He received the charge memo and admitted the charges. The enquiry officer submitted his report holding that the charges of delinquent were established. He did not submit explanation to the show court notice but admitted guilt in the course of enquiry report furnished to him and thereafter on 2-1-91 removal order was passed. He appealed to the Chairman on 15-2-91, chairman considered his matter and on 20-4-91 on dismissal order of the Chairman, he was given opportunity where also he admitted his guilt. No sickness certificates were produced at any time, when he went on leave or even during enquiry, he has not produced anything. No sickness certificate was reported, no sickness certificate was produced. He signed the proceedings admitting the guilt. The question of denying opportunity does not arise the allegation of Traffic department favouring 200 workmen who are regularly absent is also denied. The allegation that no workman was removed for absence is irrelevant. Merely because house building advance is still due it does not mean his unauthorised absence cannot be considered. For recovering those amounts the management still take necessary steps. The allegation that his absence is on account of torture by traffic manager is also not correct. It shows lack of respect to departmental superiors and attributing bad motives. Even in the past also the workman was charged for similar absenteeism but the management was extremely considered. He absented from duty without prior sanction. The allegation that traffic manager received a report with back date sent on 6-12-95 is totally irrelevant. They are not taken into consideration for issuing the present memo dated 8-1-90 for his absence from 1-1-89 to 12-12-89. It has nothing to do something happened in 1985. The reference to earlier enquiry reports is totally irrelevant. There are no merits in the case.

5. Again a rejoinder is filed by workman on 8-7-98. The management admitted about taking back 3 workmen who are removed from service. A question was raised how this petitioner was permitted to attend duty after absence without surrenderance of joining report with the help of sick and pay certificates. The non-submission of fitness certificate is not true. The receipt of sickness certificate can be found in the dock books January, 1990 to March, 1990 and few foremen and dock inspector is not tampered, in the pocesses of forwarding to traffic establishment section. At about 16 hrs. 2-7-90 when he was running in a hurry to get his salary Sri B. S. N. Reddy, Dock Inspector, who is presenting officer stopped him at main gate and forcibly brought to the chamber of Asstt. Traffic Manager(s) and enquiry officer Satyanayana Rao also sat together like discussing an emergency issue, still the

workman asserts, no enquiry was conducted. A glance at the traffic department salary bill of the Traffic department in any month of any year which is available in FA and CAO will show the absentees whose salary was reduced under the item without pay for the absence. The management did not have experience of removal of any HBA paid workman. D. Naresh Kumar was the representative of management told on 6-11-96 in the conciliation before Asstt. Labour Commissioner by mentioning 'no comments'. For removal of workman with back date N.P. Satyanarayana, Asstt. Foreman are compelled to make a report to fulfil his desire of removal releaved by trust board member, and another section officer of the Traffic Manager. In the submission filed in the papers of correspondence four times after removal from service removal was confirmed date is 30-4-91, but already confirmed on 3-11-93. No mercy appeal lies under regulations date 15-3-95. On the case of top dignitories in similar issues like the present incident during the end of 1980. Shri R.K. Gonela who is IAS Officer Chairman removed CME Employees but reinstated with back wages 2 yrs. after removal. The authority also managed in passing the removal order. Any workman should be healthy, both physically and mentally, in discharging his duties. Previously on account of sickness were allowed to attend duty by retaining him. His absence cannot be utilised by management as misconduct and misbehaviour by the management if it is not satisfied about his fitness for 2nd medical opinion he has to be sent. Hence he be granted the reliefs.

6. After those proceedings arguments were submitted and validity of domestic enquiry was upheld as there is valid domestic enquiry, consequent upon that under Sec. 11A arguments were addressed by both the parties by making documents M1 to M24 for management and Exs. W1 to W4 for workman.

7. As per Ex. W1 notice was given about holding enquiry against the workman on 28-2-86. The relevant documents and list of witnesses were also supplied along with articles of charges. He was asked to submit explanation in 10 days and he should intimate whether desires to be heard in person. It is alleged in this charge sheet the petitioner was instructed by the Shed foreman to effect delivery of paper rolls to the concerned after comparing the marks and number of paper rolls with import application and bill of entry but the instruction of the shed foreman were not paid heed and delayed the issue of gate passes to the loaded lorries, leading to delay in effecting delivery, and he also misbehaved with consignee without giving delivery. On that enquiry was held and report was submitted. In the enquiry report it is stated the charge is proved but it was not considered as misbehaviour. Another proceeding is Ex. W2 where there was some report with regarding to issue of passes and misusing of fascimile of the commandant CISF on the Dock entry pass. In that report

was given and enquiry was held and it was held there was no malafidies. Ex. W3 is with regarding to GPRF account mistake in entries. Ex. W4 is a paper cutting with regard to the Supreme Court Judgement that after cutting the salary no dismissal can be made. Ex. M1 is the notice of unauthorised absence dt. 12-10-89 where it was mentioned about the absence of workman from 11-9-89 to 12-10-89. Ex. M2 is another notice for the absence from 16-10-89 to 10-11-89. Ex. M3 is another notice for absence from 10-11-89 till 12-12-89 on that a notice was issued as charge sheet under Ex. M4 directing to submit explanation in 10 days and opportunity was given for oral hearing also. The annexure shows the three absent reports sent under Exs. M1 to M3. Ex. M5 shows about absence from 11-9-89 to 12-12-89. No sickness certificate was submitted. No leave application filed for absence. He is in the habit of frequent absence of duty unauthorisedly submitting sick and fit certificates issued by private medical practitioners, to cover the absence period at the time of joining duty causing inconvenience and dislocation of work and he is careless and irregular and charged with serious negligence and carelessness duties, as mentioned by Traffic Manager who signed it. The next document is Ex. M5 itself is with regarding to absence from duty from 11-9-89 to 12-12-89 which is also a copy earlier documents which was received and acknowledged by workman on 19-1-90 under Ex. M6. Ex. M7 is an order passed by the Traffic Manager appointed K. Satyanarayana Rao to enquire into the matter. Under M8 enquiry report was submitted along with the answers of the workman in the preliminary enquiry examination. In that the workman admitted he received a memo dt. 23-3-90 understood the contents and he admitted the charges framed against him in the charge memo, so the finding is given against the workman. Detailed report of the enquiry officer is Ex. M8. After that report he was asked to submit his representation on the penalty proposed to be imposed within 15 days and acknowledgement is Ex. M10 dated 22-11-1990. On that under Ex. M11 he was removed from service after consideration of the report. It was intimated under Ex. M12 acknowledgement giving time of 45 days to approach the appellate authority. Under Ex. M13 the salary from 2-1-91 is ordered to be not to be paid. Ex. M14 is the submission made by the workman to the Chairman by way of appeal and Ex. M15 is the order passed dismissing the appeal and acknowledged by workman by M16. Subsequently also some memorandums were submitted by the workman to consider his case which are Exs. M17 to M23 and orders thereon.

8. In the written arguments submitted for the workman repetition is made in the pleadings. It has also come to the light in the arguments that the workman did not attend the duty from 11-9-89 to 5-2-90 for a period of 148 days and not 11-9-89 to 12-12-89 (93 days) as charged by the management. He reported duty filing leave letter on medical grounds with sick and fit certificates from private

medical practitioner which is presented by Quay Foreman to forward to dock inspector and in his turn to establishment section. He was paid salary for 10 days in Sept. 1989 and 23 days in Feb., 1990 for the rest of the period he did not receive salary. He underwent without payment of salary for the entire period of absence. The fact when the workman was taken into service after long absence of his leave, application of leave and sick certificate may be assumed to have been submitted. Otherwise he would not be allowed to duty. The pay and accounts section treated the period of absence as leave without pay. He was sufficiently punished on sustained monetary loss. The traffic manager was not aware of the punishment which the workman sustained in the pay and accounts office which is one of the wings of the management. Remarks of the management in charge sheet that he is frequently absented, submitting sick and fit certificate of private medical practitioner to prove but his absence at the time of joining his duty causing inconvenience and dislocation of work, shows the management admitted the sick and fit certificates. If it is not satisfied with the private medical practitioner certificate, it would have referred to the Port Medical Officer for second opinion and there is no misconduct on his part. He refers to the other workman's absence and further submitted that no person can be prosecuted twice under Sec. 300 Cr. P.C. to Article 20(3) of Constitution of India and 26 of General Laws as it amounts to *jeo pardy*. He is relied upon the reported judgment of 1999(2) ALD 28. It is a case where unauthorised absence of driver for one week, reinstatement is ordered as fresh candidates, Finding punishment to the shockingly disproportionate to gravity of the charges direction was given for reinstatement with continuity of service and also consequential benefits but back wages were denied from the date of removal to the date of reinstatement in *Management of APSRTC Vs. N. Sankarayya* by their Lordships Venkataramireddy, ACJ and V Bhaskar Rao, J. Similar is to the effect of another judgment of Supreme Court in *Union of India Vs. Giriraju Sarma* 1994 Supp. (3) 755, in a case where the workman who was deputed to undergo a course of an electrician sought leave for 10 days on 10-12-82 which was granted, but, he sent a telegram for extension of leave for another 12 days rejected, but he joined duty on 22-12-82 where their Lordships held minor penalty should be imposed setting aside the major penalty. Another reported judgement relied on by the counsel in 1998(6) ALT 373 where there were charges for leaving headquarters without permission and failure to report at headquarter hospital for review. They are not so grave so to entitled punishment of dismissal or removal from service. It is not a case of corruption or misconduct involving moral turpitude. Suspension is held to be unsustainable and reinstatement was ordered. Another reported judgment is relief upon in 1998(6) ALT 238 in *G. Mutyalu Vs. Managing Director, APSRTC*. In that case the charge against the workman is that despite of his arrest and detention that he did not inform his superior

officer about his arrest and no second charge need be framed in view of the first charge. Another reported judgment relied upon by the counsel 1999(2) ALD 96 which is the same judgment reported in 1999 (2) ALT 28

9 While countering these arguments the learned counsel for the management submitted that this is not for the first time the workman absented from duty. Not less than 10 times for unauthorised absence without applying leave and not producing proper medical certificate enquiry was held, but out of compassion he was not removed from service. Even in this case the workman himself admitted about his absence from duty without leave and an explanation was called for he did not dispute about that fact. It is his case that he suffered long time illness and could not attend to duties. Even in his rejoinder or in his submission laid in the written arguments he could not say as who is the doctor that gave the certificate to him and what was the disease he suffered from, if really he applied leave some material should be filed by him to show that he submitted his leave application for particular day and fitness certificate and he obtained the certificate from a particular doctor. So it is a case of fallacious negligence in discharging the duties by the workman and it is also not shown in any representations and pleadings that he is in the habit of maligning others, without justifying his own absence. So workman himself admitted about his absence and opportunity was given. He admitted the absence unauthorised and not submitting any explanation about his disease and reasons for absence. By submitting the belated explanation for the purpose of case cannot be accepted. In the reported judgments relief upon by the counsel for the workman are not the case where the workman was frequently absented without leave and inspite of warning allowing to serve by joining duty during the earlier periods as in the case of present workman. Hence in those circumstances, it is a special case, no mercy can be given and reference is to be answered against the workman. The question of double jeopardy is not there in this case.

10 On a careful and respective contentions and the reasons it is a serious case of lapse on the part of the workman who went on unauthorised absence and no explanation given at the earliest stage for his unauthorised absence. It is not the case of the workman that he sent a leave application along with the medical certificate much prior to reporting to duty. Only on the date of reporting duty even as per his case, he produced fitness certificate and leave application obviously this fitness certificate which is disputed as not submitted by the management, is not even explain either in the earlier stage or at the time of enquiry or in the rejoinder filed by him or in the written arguments, as to who is the doctor that treated him and what is the disease he suffered from. A faint attempt was

made that he suffered with mental depression by the learned counsel for the workman. But when that is questioned by the court he could not answer whether the treatment that was taken by any specialist doctor of mental disease or as to what was the type of mental depression he suffered from. Hence prima facie has to be taken that the charges levelled against the workman with regard to his absence of duty for 93 days is clearly established in this case. No doubt, the management did not lay the necessary papers before the court about the previous enquiry for absence from duties. But the intimation on the charge sheet clearly indicates about the absence from duty without leave and without producing medical certificate. That was not questioned the explanation but admitted by the workman. But it was proper to look into the papers of the earlier proceedings by the Tribunal those papers are not submitted by the management. Hence it is held that the management is justified in taking disciplinary action against him on the ground of proof of charges for unauthorised absence. But with regard to the gravity of the punishment imposed, this court feels that it is a fit case where following the rulings relied upon, considering the 22 yrs of service of the workman, a liberal view should be taken in this matter. Though in normal course the courts not inclined in reference matters to interfere with the findings on proof of charges taking action by the management but in exceptional cases where the punishment is shockingly beyond proportionate certainly the awarding of punishment whether justified or not can be looked into by the Industrial Tribunal. Keeping in mind that principle, considering long term of service, inspite of the conduct of the workman was reprehensible, still this tribunal feels it is a case where reinstatement has to be ordered but the period from the termination of service will the date of passing the award the workman is not entitled to any financial benefits including various monetary benefits. For the period for which he was not paid salary for unauthorised absence also he is not entitled to any financial benefits but there shall be continuity of service. It is unfortunate that the workman in this case does not show the required discipline expected of him as an employee and it will be in the fitness of things that he should not resort to make valid allegations and mudslings against co-employees, and the benefits got by them. This Tribunal fondly hopes the workman hereafter will not resort to such deeds.

11 In the result, the reference is answered, though the management is justified in imposing the punishment against the workman the nature of punishment imposed is held to be beyond proportion to the infraction of duties. It is further answered that the ends of justice would be met by awarding the punishment of not granting the financial benefits for the period of absence of duty for 148 days from 11-9-89 to 5-2-90 and subsequently dismissal till

reinstatement, he is not entitled to any financial benefits to like salary and other emoluments and also other incidental benefits, but there shall be continuity of service, within 30 days from the date of passing this award by notification by the Government, he shall be reinstated into service. Accordingly reference is answered.

Dictated to steno transcribed by her given under my hand and seal of the court this the 16th day of September, 1999.

C. SAMBASIVA RAO, Presiding Officer

APPENDIX OF EVIDENCE :

WITNESSES EXAMINED :

FOR WORKMAN : NONE

FOR MANAGEMENT : NONE

DOCUMENTS MARKED FOR WORKMAN : Ex-W1 : 28-2-86 : Memorandum/charge sheet issued by the management.

Ex. W2 : 25-3-88 : Memorandum/chargesheet issued by management.

Ex. W3 : GPF A/c slip for 1989-90

Ex. W4 : advertisement.

Documents for Management : Ex. M1 : 2-10-89 : Unauthorised absence intimation.

Ex. M2 : 10-11-89 : Unauthorised absence intimation.

Ex. M3 : 12-12-89 : -do-

Ex. M4 : 18-1-90; Memorandum/charge sheet issued by management

Ex. M5 : Memo of charge sheet issued by management reg. unauthorised absence.

Ex. M6 : Acknowledgement

Ex. M7 : 27-3-90 : Order of the management.

Ex. M8 : 17-9-90 : Enquiry proceedings.

Ex. M9 : 29-10-90 : Memo/show cause notice.

Ex. M10 : Acknowledgement.

Ex. M11 : 2-1-91 : Removal order,

Ex. M12 : Acknowledgement.

Ex. M13 : 4-1-91 : Removal order,

Ex. M14 : 15-2-91 : Appeal letter of workman.

Ex. M15 : 30-4-91 : Appeal order by appellate authority.

Ex. M16 : Postal acknowledgement.

Ex. M17 : Representation letter addressed to Management by workman.

Ex. M18 : Letter of Management regarding appeal for review of order of removal.

Ex. M19 : 13-2-95 : Representation to management by workman.

Ex. M20 : Letter of management mercy appeal.

Ex. M21 : Letter of management by mercy appeal.

Ex. M22 : 8-3-96 : Representation to management by workman.

Ex. M23 : 30-3-96 : Letter of Management

Ex. M24 : 9-4-96 : Letter of management.

नई दिल्ली, 17 अगस्त, 2001

का.आ.2382.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार धन रेड्डी एण्ड क. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय विशाखापट्टनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[सं. एल-34011/11/96-आई. आर.(एम.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s. DHANA REDDY & CO. and their workman, which was received by the Central Government on 14-08-2001.

[No. L-34011/11/96-IR. (M)]

B. M. David, Under Secy.

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL CUM
LABOUR COURT : VISAKHAPATNAM.

Present : Shri C. Sambasiva Rao, M.A., B.L.,
Chairman & Presiding Officer.

Dated: 23rd day of September, 1999

I.T.I.D. (C) 3/97

REFERENCE NO. L-34011/11/96-IR (Misc)

Dated : 31-12-1996

BETWEEN :

General Secretary,
Port and Dock Stevedores Union,
D. No. 14-25-32A, Dandu Bazar,
Maharanipeta,
Visakhapatnam-530002 Workman
AND

The Managing Partner,
M/s. Dhana Reddy & Co.,
23-23-2, Beach Road,
Thamson Street,
Visakhapatnam-530001 Management

This dispute coming on for final hearing before me in the presence of Sri S. Rama Rao, Authorised representative for workman and Sri Y. V. Sanyasi Rao and Sri Y. Ramesh, Advocates for management, upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following :

AWARD

(1) This is a reference made by the Government of India under Sec. 10 (1)(C) of the Industrial Disputes Act, 1947. The terms of reference is as follows :

"Whether the action of the management of M/s. Dhana Reddy & Company Stevedors, Visakhapatnam, in terminating the services of 12 Dumper Drivers (List enclosed) without following the procedure laid down in the Industrial Disputes Act, 1947 is justified?

If not, to what relief the concerned workmen are entitled to?"

(2) The averments in the claim statement filed by the workman are as follows : It is submitted that the management abruptly resorted to stopping the following 12 Dumper Drivers from attending their duties from April, 1995 without assigning any reasons for their stoppage and continuing their juniors in the said company for the reasons not known to the workman.

- 1) Sri M.B. Mutyalayya
- 2) Sri B. Baburao
- 3) Sri T. Simhachalam
- 4) Sri M. Chinna Rao

- 5) Sri Ramunaidu
- 6) Sri K. Ramu
- 7) Sri R. Appalanaidu
- 8) Sri G. Nooka Raju
- 9) Sri B. Demudu Babu
- 10) Sri B. Ramana
- 11) Sri P. Satyanarayana
- 12) Sri N. Gurumurthy

The management did not establish the fact that there was no sufficient work in the company nor the workman were terminated on disciplinary grounds, if there was misconduct on the part of the workmen. Even assuming that the workmen were discharged, it was not done as per the provisions contained in Industrial Disputes Act, 1947. The management is liable to give one month notice, or one month pay in lieu of notice and retrenchment compensation. The management has to follow the reported judgement of Mohan Lal Vs. Bharat Electronics Ltd (AIR 1981 SC 1253-1981 (II) LJ 70(SC)). Inference of retrenchment can be drawn from the facts that the management stopped provident fund contribution and failed to observe procedure in Sec. 25F as decided in The Mgt Handicrafts Handloom Export Corporation of India Ltd., Vs D D. Gupta (1987 Lab-IC 1268 Delhi).

The management neither closed the company nor declared lay off and did not follow retrenchment of the workmen in accordance with the provisions contained under Chapter V-B sections 25K, 25M, 25N and 25-O of I.D. Act, 1947. It has been functioning very well by employing newly recruited workers who are junior most to the workmen. It is also submitted that the management after having attended for conciliation on three occasions on 11-6-96, 1-7-96 and 15-7-96, evaded attending subsequent joint discussions fixed by the conciliation officer on 23-4-96, 14-5-96, 3-6-96, 2-8-96, 19-8-96, 2-9-96, 13-9-96 and finally on 20-9-96. Hence the action of the management is highly unjust capricious and illegal.

3) For this the management filed a counter denying the allegations made in the petition. It denied that it engaged the 12 dumper drivers whose names are mentioned in the claim petition and also denied that they are working since 15 years. It is submitted that the transport work is being carried on by M/s. Chitta Transports which employed dumper drivers and carry the transport work beyond the Visakhapatnam Port limits and to destinations far off from Visakhapatnam Port. The transport work is not confined only to Visakhapatnam Port limits and not confined to only loading and unloading of ships at Vishakhapatnam Port. It submitted that there is no employer-employee relationship between the respondent and the workers in the claim petition and it did not stop the work of them. The I.D. Act is not necessary as the management is not an

industrial establishment within the meaning of I.D. Act. It denied that the joint meetings held on 11-6-96, 1-7-96 and 17-7-96 by the Regional Assistant Commissioner of Labour (Central) It submitted that the workman union served a charter of demands to RACL (Central) to which the management replied raising objections principally on two grounds that the appropriate Government is the State Government and not the Central Government and the dumper drivers are not workers coming within the purview of the Dock Labour Board Act and the second one is as there was a settlement entered into between the union and the management of Chitta Transport under Sec. 18(1) of the I.D. Act there does not exist any industrial dispute within the meaning of I.D. Act to proceed further. The copy of settlement dated 28-6-96 was also filed before the forum and the said forum stated that it does not have the power to adjudicate the matter. Further the management did not attend the meetings but on account of the fact that the appropriate Government is not the Central Government and that the Asstt. Commissioner of Labour does not have the jurisdiction to deal with the matter and more so when he chose to adjudicate on the issues involved. It is further submitted that the transport workers working on the lorries are not workers within the meaning of the Dock Workers (Regulation of Employment) Act, 1948 was wrongly relied upon by the Assistant Commissioner of Labour. It is further submitted that the Hon'ble A.P. High Court also explained the scope of the said Act in a recent decision. There are a number of employees in other concerns of stevedoring in Visakhapatnam Port and elsewhere getting the transport work done through carries who are not governed by the provisions of Dock Workers etc., act and who are not touched by the Asstt. Commissioner of Labour. There is not only discrimination on the part of the Asstt. Commissioner of Labour in the matter, but also acted in contravention of the provisions of law. It is a partnership under the Indian Partnership Act and is not a juridical person. Hence the reference is not maintainable. The persons mentioned in the claim statement are not the employees of the management and there is no relationship between the management and the workman. Hence there are no merits in the petition and the petition is liable to be dismissed.

(4) In the above pleadings the workman was examined as WW1 and Exs W1 to W7 are marked. For management MW1 and MW2 are examined and Exs M1 to M30 are marked. Through court Ex C1 and Ex X1 documents are marked.

(5) The points for consideration are .

- 1) Whether the reference by the Central Government on the recommendation of the Asstt. Commissioner of Labour (Central), is vitiated and no reference can be made in this case by the Central Government?

2) Whether dispute cannot be raised against the respondent as contended by it?

3) Whether the management respondent is the employer and the 12 workers are the employees of the respondent or they are only employees of M/s Chitta Transport Company?

4) Whether the workers entitled to reinstatement with consequential benefits?

6) On the above pleadings MW2 one B. Trinadha Rao, Managing Partner of Chitta Transport Company is examined. He stated that he was employed in the management company from 1991 to 1993 as transport supervisor and he know the 12 persons/workmen. The workmen were engaged by the Dhana Reddy and Company as daily wage workers as and when there is work upto 1993 to operate transport service. After 1993 himself and two others started a partnership firm by name Chitta Transport Co. and that time there was agreement between Dhana Reddy and Company their firm. He admitted his signatures on Ex. M3 as a Managing Partner of the firm. From 1993 the workmen working with their firm and Dhana Reddy Co., has nothing to do with their services but it paid some compensation to all those workers while transferring the transport company in his presence. The receipts are filed under Exs. M3 to M13. He admitted that these workmen working with his firm and the payment made by them towards insurance of these drivers to New India Insurance Company under Ex. X1 as also P.F. contribution was made by their firm under Ex. M28, M27 and M29. The settlement made by them is under Ex. M1. He deposed in his cross-examination that he was aware of that a dispute between the Dhana Reddy and Co., and these workmen are in that connection there were some criminal cases were registered and investigations made by the Harbour police.

Whereas MW1 deposed that he was aware of all the facts pertaining to the relationship of workers and the management. Ex. M2 is the registration of Dhana Reddy and Co., Partnership firm. In March 1993 the operation of trucks was under the management of this firm. This firm was given to a contract of Chitta Transport Agency and an agreement was entered into that effect between the management and the agency under Ex. M3. The drivers and cleaners are suppliers by that agency from the date of agreement. The management of Dhana Reddy Co., has nothing to do with the appointment services and consequent disputes between these workers and the agency. The accounts of all the workmen about 100 in number were settled when the agreement was entered into between agency and management with regard to operation of trucks. He deposed that they obtained stamped receipts from the workers to that effect including the present 12 workmen which are filed under Exs. M4 to M13. He also deposed that there is no relationship between the workmen

and the management He denied that they opened accounts in Andhra Bank to deposit the amounts of workers towards contribution of provident fund He deposed that as per the Provident Fund Act the principal employer has to effect deduction of employer and employee contribution and since the Chitta Transport Agency failed to do so they have not attended on the representation of the Commissioner and deposited the amount under the challan original of Ex M26 for an amount of Rs 1,32,375/ The P F Commissioner issued a notice to Chitta Transport Agency under Ex M27 and M28 He denied that they received representation by the workers that they contribute provident fund but Chitta Transport Agency was received the same and the Commissioner did not agree for that representation He deposed that the State Government is enforcing the Contract Labour Act Provisions but not the Central Government He deposed in his further chief examination that the management Dhana Reddy & Co , is covered by Employees Provident Fund Act and on 13th December, 1985 an order was issued covering their company by that Act The copy of it is Ex M30 In his Cross examination he deposed that he was a Chartered Accountant for the last 2 and half years he was working with the management and he does not know personally the details of services of the workmen which is the subject matter of this reference He deposed that he does not know who are the workmen covered by Ex M1 agreement dated 28-6-96 He admitted that K Ranga Reddy representing Dhana Reddy and Co , signed this agreement under Ex M1 The date of purchase of stamp on which Ex M1 is executed on 18-4-91 The agreement was signed by both the companies on 1-4-93 and this document is not a registered document In Ex M4 to M13 a mentioned was made that in full settlement of all claims that agreement was arrived but details of various heads settlement were not mentioned He deposed that he does not know on what basis the benefits were calculated in these documents Under Ex M14 and M15 the total figure was given but there are no details how the figures were arrived at He deposed that at the top of Ex M23 he wrote endorsement for his convenience as Dhana Reddy and Co , He denied that Ex M27 was issued by Regional Provident Fund Commissioner to their company He denied that one K Ranga Reddy is an employee of Dhana Reddy and Company He stated that person is only a lorry supplier of the company

Whereas the workman deposed as WW1 stating that he worked with Dhana Reddy and Company as Dumper driver He also said that about 225 to 250 workers are employed by the management company who were paid when he joined service in 1990 on a consolidated pay of Rs 750 per month He was discharging the duties of loading and unloading the goods by using the vehicles He said that their services were been rotated on 4 to 5 dumpers trucks owned by the management and the relevant

papers are under Exs W1 to W3 He deposed that at the time of stopping from work he was drawing Rs 140 per month and from July, 1994 to Dec , 1995 Rs 120 were deducting towards P F contribution in every month by the management Sometime the amounts were withdrawn by the management stating that they have to deposit the same with the Regional Provident Fund Commissioner but he understands that these amounts are not properly deposited by the management He made verification at Regional Provident Fund Commissioner's Office and a memo was issued by that office which is filed under Ex W4 He deposed that the management asked to stop the work from May, 1995 The management informed the same orally and no reasons were assigned while terminating his services and no notice was given or one month pay in lieu of notice and retrenchment compensation was paid He deposed that he joined in Dhana Reddy and Company and removed by that company only but not any other company like Chitta Transport or Nav Bharat Company In his cross-examination he deposed that he did not produce any documentary evidence except those produced before the court about his employment with to Dhana Reddy and Company He denied that they are not registered as workers with Dock Labour Board He deposed that one Baditha Bojula Trinada Rao is a supervisor in charge of vehicles in Dhana Reddy and Co , who came to the court to give evidence He denied that all the tipper lorries are operated by only Chitta Transport Company and not the management Ex W4 was not issued in his name or does not even sign it He deposed in his further chief examination that he signed on the letter addressed to Regional P F Commissioner under Ex W5 and he does not know the details of the settlement of Ex M1 He deposed that Dock Labour Board is attached to Port Trust whereas the management is a private company He deposed that the Port Trust Authorities want permit them to enter the premises of the port unless the gate pass is produced by them and that the same was given to him through the management The original gate pass is Ex W6 This workman name is Simhachalam and the full name of Simhachalam is not mentioned in Ex W6 He deposed that he can sign in English and the signature on Ex W6 is not his signature but bears his name The signature on the deposition earlier signed by him, Ex C1 is not his signature He denied that he received Rs 900 and issued the receipt in full and final settlement of his claim under Ex M10

Ex C1 is the signature under the earlier part of the deposition Ex W1 is the reference to a lorry No AP 317 7926 of K R and Sons was that of Dhana Reddy and Company It is shown as Ex W1, so also W2 and W3 documents in the same way Ex W4 is the name of Sri N Gurumurthy who is the 12th workman in this petition Ex W4 official visit was made on 18-11-98 by the workman to the P F organisation The 12th workman said to have

been addressed under Ex. W5 seeking information from the Divisional P.F. Commissioner mentioning that Dhana Reddy and company deducting the amounts towards P.F. contribution. It is also requested to arrange for issue of certified copy of receipts of such amounts, as recovered from this M/s Dhana Reddy & Co., or M/s Chitta Transport and Co. That letter was dated in August, 1998. Ex. W6 is the P.F. deposit for March, 1995 and on the second sheet of Ex. W6 there is a stamp of M/s Chitta Transport workers supply contractors Agency. Ex. W7 is a proceedings which is signed by the management Transport Incharge Sri B. Trinadha Rao and P. V. Raman Treasurer of the union, representative of workmen union. It was issued on 16-7-97. In that it is mentioned that the workers namely G. Nagaraju, G. Satyanaryana and G. Paradesi informed that they have already joined in service w.e.f. 1-4-97 and they are continuing in employment. The management has also paid them Feb., and March, 1997 salaries as well. They have also confirmed that the remaining three employees namely G. Raju, G. Satyanarayana and D. Mutyala Naidu were also taken into employment w.e.f. 1-4-97 and also received Feb. and March, 1997 salaries together. In the conciliation for illegal termination this Ex. W7 was filed.

Ex. M1 is terms of agreement under Sec. 18(1) of the Industrial Disputes Act on 28-6-96 between the management of M/s Chitta Transport under Miss. V. Dhana Reddy company and workmen represented by the Port and Dock stevedores workers union on charter of demands Ex. M2 is the registration of firm of V. Dhana Reddy & Co. Ex. M3 is the registration of firm of V. Dhana Reddy & Co. Ex. M3 is agreement between M/s Chitta Transport workers supply contractors Agency, Maddliapalem, Vakkapattanam and M/s. V. Dhana Reddy & Co., partnership firm represented by V. S. R. Sainatha Reddy, partner. The stamp of Rs. 6/- was soon taken on 18-4-93, which is highlighted as the bearing later dates and whereas agreement is 1st April, 1993 and on a keen observation it is found that figure is corrected in (4) four. Ex. M4 is a receipt of 8th worker Nooka Raju, Ex. W5 is the receipt of N. Gurumurthy, the 12th workman in the petition. Ex. W6 is the receipt of B. Ramana with serial No. 10 of the workman, Ex. W7 is the receipt of M. Chinnarao, the 4th petitioner in the petition. Ex. W8 is the receipt of S. Baburao, the 2nd petitioner in the petition. Ex. M9 is the receipt of B. Demudu Babu, 9th workman in the petition. Ex. M10 is the receipt of one T. Simhachalam, the 3rd workman in the petition. Ex. M11 is the receipt of one K. Ramunaidu the 5th workman in the petition. Ex. M12 is the receipt of one K. Ramu the 6th workman in the petition. Ex. M13 is the receipt of one B. Mutyalayya the 1st workman in the petition. Ex. M14 to M19 are the accounts copies of the workmen payments under the above receipts. Ex. M20 is blank form No. 83 issued for passage of vehicle under Port Area and the copy of the letter enclosing to it is the letter of V. Dhana Reddy

& Co., for issue of dumpers/lorries daily dock Entry permit book. An amount of Rs. 300/- is sent along with it towards the cost of the book. Ex. M21 show final list of staff dumpers vehicle and names. Ex. M22 to M24 are the accounts copy of Chitta Transport Workers Supply Contractors Agency. Ex. M25 is balance sheet as at 31st March, 1993 of M/s V. Dhana Reddy & Co. Ex. M26 is the receipt of P. F. Organisation towards E.P.F. contributions paid by the management through SBI. Ex. M27 is the letter addressed to EPF organisation by MW2 who represented by M/s Chitta Transport dated 2-6-98 for which the letter dated 30-3-95 by the MW2 under Ex. M28. Ex. M29 is the letter by Employees P.F. Organisation to the union, and copy is sent to M/s Chitta Transport. Ex. M30 is letter addressed to V.B.V. Reddy, partner of M/s. V. Dhana Reddy & Co., for applicability of the employees Provident Funds & Miscellaneous Provisions Act, 1952 and the scheme framed thereunder to M/s V Dhana Reddy & Co. Ex. X1 is the New India Assurance Company Limited policy and the name of the present workmen also are marked in it.

It is argued for the management M/s Dhana Reddy & Co. that the Asst. Labour Commissioner assumed that the drivers and cleaners involved in the reference are Dock workers within the meaning of the Dock Labour Board Regulations and hence Central Government is the Appropriate Government. WW1 admitted in his evidence that they are not registered as dock labour workers. As per the decision in 1994 (1) CLR 187 Bombay in Irkar Shahu and Another Vs. Bombay Port Trust the status of these 12 workmen is only that of drivers and cleaners under DRC the management in the I.D. Therefore the appropriate Government is the State Government. Hence the reference by the Central Government is without jurisdiction. No Industrial Dispute can be raised against partnership firm. The management relied upon another decision of 1990(1) LLN 533 (Bombay) in Navbharat Press Nagpur Vs. Nagpur Union of working Journalists. It submitted that these workers are the employees of Chitta Transport workers supply contractors agency as per the agreement dated 1-4-93 between the Dhana Reddy and Co. and the Chitta Transport under Ex. M3 and so they are not entitled any reliefs under Sec. 25FF of the I.D. Act. It also argued that under clause III (ii) of Ex. M3 Chitta Transport has to pay the wages and other legal entitlements and is alone responsible to discharge all legal obligations in respect of these workmen. The management also relied upon another decision of 1992(3) ALT 649 in G. V. M. Reddy Vs. APSRTC and stated that as per Sec. 25FF Chitta Transport having agreed to take these workers, the continuity of service is protected as per Cl. III (ii) of Ex. M3, Dhana Reddy & Co. is not liable to pay retrenchment compensation as can be seen from the proviso to Sec. 25FF. It argued that there is no relationship between the workmen and the management. As per MW2 also the workmen are

the employees of the Chitta Transport only. As can be seen from the list of workmen appended to the Ex. XI, these 12 workers names are also included which is sent by Chitta Transport and hence the workers are only the employees of Chitta Transport. Ex. M26, the EPC challan for payment of Rs. 1,36,375/- Ex. M27 towards EPF notice as also Ex. M28 and M29 also show that the employees are the Chitta Transport. Exs. M4 to M13 are the receipts show the employer employee relationship between the DRC and these workers came to an end w.e.f. 31-3-99. The management submitted that only WW1 gave evidence but rest of the workers did not enter the box and WW1 cannot speak on behalf of the rest. WW1 denies his signature in Ex. M10 and he even denied his signature on his deposition in court. The management submitted that the type of evidence placed on behalf of the workmen and also submitted that W1, W2 and W3 do not establish any employer-employee relationship between the management and the workmen as also W6. WW1 admitted that no appointment orders and no termination orders issued by the management and they are not in possession of any material to establish the relationship between the management and the workmen. The management finally submitted that what Dhana Reddy & Co., meant is that w.e.f. 1-4-93 i.e., even before the dispute was raised these 12 workmen ceased to be the employees of DRC. So the union miserably failed to establish and substantiate its claim.

The definition of 'Industry' U/s. 2 (j) of the Act means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer, directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature).....” Hence the management comes under the definition of 'Industry'. The workmen submitted arguments stating that their union served a charter of demands dated 17-4-96 and also claimed settlement of dues to the workmen and addressed letters dated 17-4-96 and 4-3-96 to Asst. Labour Commissioner (Central), Visakhapatnam over which the management raised two object one that the Central Government is not the appropriate Government and there was a settlement on area into between the parties. The workman submitted that the settlement arrived under Sec. 18(i) of the I.D. Act, 1947 is with regard to the issues pertaining to other workers working with M/s. Chitta Transport under M/s. V. Dhana Reddy & Company but not the 12 workman in this dispute. As such, it cannot be pleaded that there was a settlement under the said Act. Hence Ex. M1 has no application to the present dispute. It is further argued that it is an activity of the Dock Labour Board established u/s 5A of Dock Workers (Regulation of Employment) Act,

1848; since the management is associating with the activities of Dock Labour Board in carrying out transport business, it is well within the ambit of Central Government and the Central Government is the appropriate Government to refer the dispute. Hence the provisions of I. D. Act are very much applicable to the management whether it is in the name of M/s V. Dhana Reddy & Co. or Chitta Transport. It is further argued that the workmen worked with the Dhana Reddy & Co., and terminated by that company without assigning any reasons and there is nothing to do with the partnership concern of M/s. Chitta Transport in this dispute. It is also submitted that as per Sec. 2(a) of the I. D. Act the dispute concerning a Major Port meaning a dispute between a contractor of the Major port and his workmen in such a dispute appropriate Government in such a case is the Central Government. He relied upon a judgement in 1974 APHN 114 of the Continental Construction (P.) Ltd., Vs. Government of India and others in this regard. He also relied upon another judgement of 1976 ALT 48 (NRC) 1976 (1) APLJ 33 NRC 1976 APHN 217 of The Continental Construction (P.) Ltd., Vs. Government of India stating that Sec. 2a(i) that private company engaged in construction of break waters and jetties at the Visakhapatnam Port-Dispute raised between the workmen and the company, the Central Government is competent to refer that Dispute to the Industrial Tribunal. It is also argued that the management suppressed the details of employment of these workmen taking advantage of non-issuance of appointment orders, salary covers and termination orders etc. It was categorically denied by the workman T. Simenanchal in his deposition as to signing on any papers before ACL (C) with regard to enhancement of salaries, granting of leaves etc. and he deposed that they joined only in M/s. V. Dhana Reddy & Co. only but not M/s Chitta Transport or any other company. Hence the management want only avoided issue of order of appointment or termination order or monthly pay slips with a view to escape from the legal obligations. The workman further argued that in the cross-examination of MW1 he categorically admitted that he does not know the workmen covered by Ex. M1 agreement dated 28-6-96 and the Ex. M3 is an unregistered document which has no evidentiary value in the eye of law. It was only a fabricated document with a view to escape from the liability of the management. It may be observed that four workers in this. I.D. has signed in the Ex. M1 settlement and the workers signed at serial numbers 3 and 7 are only the workers of M/s Chitta Transport. MW1 could not clarify the details of benefits stated to have given vide exhibits M4 to M13 and he has confirmed that the gate passes under Ex. W1, W2, W3 and W6 are kept in the custody of the management. MW2 also admitted that he knew these workmen 4 to 6 of the years prior to 1991 and that there are disputes between the workmen and the management with regard to wages. He also admitted that when disputes were raised by the workmen, the

management brought new workmen and in that connection there were some criminal cases which were registered and investigated by the police. It is also argued that Ex. M20 is nothing but a blank permit for entry of lorries/dumpers issued by VPT. These pass books are only kept in the custody of management as evidence from the deposition given by MW1. These documents cannot be filtered or tempered by any of the workmen in the management and therefore it goes to show that Ex. W1 to W3 and W6 are only issued by the management at the time of allocation of duties on the dumpers. It is further argued that the management failed to maintain the muster rolls of the workmen violating the duty cast upon the management to maintain the same as per Sec. 25D of I.D. Act and also failed to observe the procedure contemplated u/s 25-B, 25-D, 25F, 25G and 25J of I.D. Act. It is further argued that the management indulged in unfair labour practice by retrenching the workmen in this dispute by way of victimisation by committing the acts provided in the fifth schedule under items 1(a) (b), 5(a), (b), (c), 6, 7, 9, 10, 11, 14 & 16 of unfair labour practices. The counsel for workman relied upon a decision of AIR 1981 SC 1253-1981 (II) LLJ 70 (SC) and also 1987 LAB IC Delhi of the MGT of Handicrafts Handloom Export Corporation of India Ltd., Vs., D.D. Gupta. It is also submitted that even assuming that these workmen were employed by M/s Chitta Transport from 1-4-93 as per the Agreement under Ex. M3 the management has an obligation to pay the compensations P.F., Gratuity etc. as a 'Principal employer'. The counsel for the workmen strenuously stated that these workmen are entitled for reinstatement with back wages. The workmen further argued that the management did not choose to challenge the notification reference made by the Central Government dated 31-12-96 but all of a sudden, the management argued that the reference itself is bad so it is an afterthought and such contention is at correct in as much as the management agreed to defend their case before this court under the said notification. Hence the reference is valid and the court has got jurisdiction to adjudicate the dispute. They relied upon a judgement in 1979 Supreme Court 1356, Sec. 10 Clause (4) and Sec. 15 jurisdiction of Tribunal—Tribunal cannot go beyond the terms of reference. Held in this case the jurisdiction of the Tribunal in the I.D. is limited to the point specially referred for its adjudication and to matters incidental thereto and the Tribunal cannot go beyond the terms of reference. The workers do not know about the alleged agreement under Ex. M3 and the understanding reached between the so called M/s Chitta Transport and the management. It is further submitted that there is no issue before this court that whether the workmen are the workers of M/s V. Dhana Reddy & Co., or M/s Chitta Transport Agency and who are liable for the illegal action. Hence the colourable creation of M/s Chitta Transport Agency is only a victimisation and unfair labour practices. The workmen are not aware of the so called alleged transfer of the two

managements and no point of time the management informed about the same to the workmen. There is no evidence regarding the transfer orders issued to these workmen to join and continue with the services of M/s Chitta Transport against the agreement under Ex. M3 and the same is admitted by MW2 in his cross-examination. It is the burden of the management to show by producing the documentary evidence about their workmen appointed and how many workers were transferred to M/s Chitta Transport and to what the liabilities i.e., wages and the other benefits are payable to the transferred workmen. But the management did not show any positive evidence to defend Ex. M3 and the said Ex. is created only to escape from the legal liability. It is submitted that the definition of 'industry' as defined U/Sec. 2(j) and the definition of 'factor' in the definition of Sec. 2(M) of Factories Act amply establish the management is within the ambit of the definition of Industry and the same is held in the Bangalore Water Supply & Sewerage Board Case by Hon'ble Supreme Court. Hence it is admitted by the work done by the workers in this dispute is a systematic activity which is perennial in nature and hence it is definitely an Industry as defined under the Acts. It is also submitted that Exs. M22 to M30 are admittedly maintained by M/s. Chitta Transport Agency are self same documents and workmen are not aware of these documents at any point of time and they are only created by the management to deny the relief. It is further submitted that M/s Chitta Transport Agency also did not produce the muster rolls, acquittance register etc. of these workmen in particular and others in general, because as per the statutory law, the important registers should be maintained by the employer and failure to maintain such registers which is mandatory requirement an adverse inference may be drawn against the management and in favour of the workmen. It is also submitted that the management established that more 100 workmen under this special provisions of Sec. 25K r/w Sec. 25N of I.D. Act will apply in this case i.e., to say 3 months notice, 3 months wages in lieu of notice with prayer permission from the appropriate government are mandatory requirements. But in this case all these mandatory provisions were not complied with. Hence the oral termination order keeping out of employment of the workmen is highly illegal, arbitrary, capricious and bad under the cannons of Industrial Law. With regard to the arguments of the managements of the under document M4 to M13, it is submitted that the management obtained signatures on blank revenue stamps affixed papers by misleading the workmen and the particulars mentioned in so called documents were only filled behind the back of these workmen and they are not aware of any contents mentioned in the said documents. On the other hand the management failed to adduce evidence by calling this scribe or alleged witness to substantiate their defence. In fact, these workmen are not aware, who has filled in the particulars mentioned in the alleged documents M3 to M14

and who has witnessed the alleged payments. Hence the management failed to follow the mandatory requirements U/s. 25-N of the I.D. Act and hence the workmen are entitled to the reliefs claimed by them.

Coming to the conclusions in the matter as per the definition under Sec. 2(a) (i) in case with regard to appropriate Government which has to be made a reference in relation to any industrial disputes concerning any industry carried on by or under the authority of the Central Government or by a Railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an Industrial Dispute concerning Dock Labour Board and in case of that the Central Government is the appropriate government. Under sec. 2(ii) in relation to any other Industrial dispute the appropriate Government is the State Government.

In the reported judgement in 1994(I) CLR 187 of *Irkar Shahu & Anr. Vs Bombay Port Trust & Ors.*, it is held that the scheme of 1956 does not cover the work performed by these petitioners since it is not the work ordinarily performed by the General purpose Mazdoors registered under the scheme of 1956. In that judgement in W.P. No. 752/92 by Their Lordships of division bench it is observed that work of loading and unloading cargo from truck after goods are cleared by customs whether they entitled to entry permits, the said work is done by workers covered by clearing and forwarding scheme of 1983 and as such in view of clause 39 the members of petitioner are not entitled to do that work. It is also held in this judgement the scheme of 1956 does not come under the claim of Dock Workers (Regulation of Employment) Act, 1948. Considering that aspect these workmen who are not directly employees falling under the definition of Dock Workers Regulation of Employment Act, 1948 or employees of Dock Labour Board cannot be treated as employees falling under the Central Scheme. It is an industry carried on by Central Government and so in so far the relationship between the workmen and the management is concerned in this case who is a stevedor firm their services are not under the purview of a Central Government to treat the Central Government as Appropriate Government to refer the matter. Hence on the first point raised by in the reference cannot be made by Central Government and recommendation made in this regard by Asst. Commissioner of Labour cannot be sustained.

The arguments to the contra submitted that having participated the management cannot questioned also cannot be sustained.

(7) **Point No. 2 :** In the reported judgement of *Navbharat Press Nagpur Vs. Nagpur Union of Working Journalists* reported in 1990 (1) LLN 553 (Bombay) DB observed that a partnership firm is not a legal person within the meaning of Industrial Disputes Act. So under the

particular provisions of law under the Industrial Disputes Act in the face of documentary evidence produced the respondent is a partnership firm and the partnership firm as such has no legal entity to claim the benefits. In Partnership Act a dispute cannot be raised against the firm which is not legal entity in the eye of law under the I.D. Act, so necessarily the reference has to be made by the partners of the firm even though this objection was raised long back an effort was made by the workmen.

It is no doubt true Ex. M1 is an agreement entered into by the majority of the union members representing the workmen working with the respondent company at a time when it was taken over by MW1, partnership firm. Ex. M1 shows the management settlement was signed between the management and the union and these 12 workmen that they are not bound by it as they are not parties. But before accepting this argument it could be seen that whether there is any other evidence on record to show that these workmen are aware or not aware of any such settlement and they acted on behalf of the management. It is no doubt true as contended by the workmen representative that M4 to M13 are not the figures which reflect the compensation payable to the workmen but the factum of receiving the amount under those receipts by the 10 workmen out of these 12 workmen is not disputed. It is not the case of the management that they paid these amounts towards the settlement of claim either u/s 25F or u/s 25FF.

But some amounts were paid to them. The amounts were received by the workmen on stamped receipts and what contention understood by the workmen how to spoken by the workmen themselves. WW1 though denied the signature on the stamped receipt issued by him it can be hardly accepted. A belated argument is sought to be raised by the counsel for the workmen that they do not know the contents. But it does not mean that he did not receive the amounts. The other workmen were not examined to deny or to say the correctness or otherwise of the receipts issued by them under Ex. M4 to M13. Apart from these receipts which are filed the ledger accounts and the audit accounts also produced showing these documents were made by the management to the petitioner. So in this context though conveniently it is sought to be evidenced by M1 is not at all binding on these workmen has to be denied especially when all the representatives of the union signed the terms of agreement between the management and the workmen. Though Ex. M3 is a document which is binding on the workmen, the fact remains that the documentary evidence shows the contributions paid to the workers towards P.F., treating them as workmen of M/s Chitta Transport Agency is also taken for these vehicles mentioning the names of the individual workmen who are attached to various vehicles along other workmen and the amount as policy was paid on 21-9-94 by Chitta Transport Co. Though M3 is not

binding on the workmen it cannot be said that by virtue of MM30 that it is Ex. M3 is a manipulated document. Under Sec. 25FF compensation to workmen in case of transfer of undertaking is provided under the proviso the workmen's services are transferred by the management even the service of the workmen is not interrupted by the management, the self same conditions are applicable to the workman are not less favourable to the workmen and new terms under the new employer and the terms of such transfer undertakes liable to pay the amount in case of retrenchment compensation on the past service and is not been interrupted by the transfer Sec. 25FF cannot be applied. Under Ex. M3 clause 3 (2) the MW2 on behalf of the contracting firm has taken up the responsibility of payment of wages and discharges of legal responsibilities towards employees appointed by the early management and it also further undertaken a responsibility under clause (3) the dispute between the workmen employees under the first party in operating the vehicles, the second party cannot be liable. Thus, when the interruption of workmen protected adequately and the proviso 25FF is directly complied with the virtue of agreement under Ex. M3 and the workmen having received the amounts towards service done by them to the management having received the same and now cannot say having nothing to do with the Chitta Transport Company and it is still the respondent which is liable to pay the amounts and they are the employees of the Dhana Reddy and Company.

The question of retrenchment by the management does not arise in this case as their services are still continuing. They are not entitled to any compensation or other benefits against the respondent/management.

(7) In the result, it is held that the reference to this Tribunal by the Central Government treating it as Appropriate Government and can make a reference itself is bad under law and it is further answered that the workmen cannot be granted any relief even if otherwise the tribunal can decide the matter. Accordingly the reference is answered.

Dictated to steno transcribed by her given under my hand and seal of the court this the 27th day of September, 1999.

C. SAMBASIVA RAO,
Presiding Officer

Appendix of Evidence
Witnesses Examined for

Workman :	Management :
	MW1 M.L. Narshimha Rao
	MW2 B. Trinadha Rao.

Documents marked for 'C'

Ex. C1 Signature of WW1 i.e., T. Simhachalam in the deposition of WW1.

X Series :

Ex. X1 Schedule forming part of the policy numbers (Group JPA)

Documents marked for workmen :

- Ex. W1 3-2-95 daily permit for lorries dumpers.
- Ex. W2 6-2-95 daily permit for lorries dumpers.
- Ex. W3 4-1-95 daily permit for lorries dumpers.
- Ex. W4 18-11-95 visitors slip of employees' provident fund organisation.
- Ex. W5 Letter addressed to the Regional Provident Fund Commissioner Visakhapatnam by the petitioners.
- Ex. W6 19-2-92 Entry permit workshop part of the Visakhapatnam Port Trust.
- Ex. W7 16-7-97 Minutes of Joint discussions held between the Management and workers.

Documents marked for Management :

- Ex. M1 28-6-96 Memorandum of settlement arrived between management and workman.
- Ex. M2 12-6-68 Acknowledgement of Registration of firm.
- Ex. M3 1-4-93 Agreement between M/s. Chitta Transport workers supply contractors Agency Vs. M/s. Dhan Reddy & Co.,
- Ex. M4 12-2-93 stamped receipt amount of Rs. 900/-.
- Ex. M5 12-2-93 stamped receipt amount of Rs. 3150/-.
- Ex. M6 12-2-93 stamped receipt amount of Rs. 3150/-.
- Ex. M7 12-2-93 stamped receipt for an amount of Rs. 3150/-.
- Ex. M8 12-2-93 stamped receipt for an amount of Rs. 5250/-.
- Ex. M9 12-3-93 stamped receipt for an amount of Rs. 3150/-.
- Ex. M10 12-2-93 stamped receipt for an amount of Rs. 3150/-.
- Ex. M11 12-2-93 stamped receipt for an amount of Rs. 2100/-.
- Ex. M12 12-2-93 stamped receipt for an amount of Rs. 2,625/-.
- Ex. M13 12-2-93 stamped receipt for an amount of Rs. 3150/-.
- Ex. M14 Xerox copy of the Account book page No. 146.
- Ex. M15 Xerox copy of the Account book page No. 147.
- Ex. M16 Xerox copy of the Account book page No. 148.
- Ex. M17 Xerox copy of the Account book page No. 149.
- Ex. M18 Xerox copy of the Account book page No. 151.
- Ex. M19 Xerox copy of the Account book page No. 152.
- Ex. M20 16-4-99 Letter addressed to the Visakhapatnam Port Trust by Management.
- Ex. M21 Xerox copy of the dumper staff full and final list.

- Ex M22 Xerox copy of the Chitta Transport workers supply contractors Agency account
- Ex M23 Xerox copy of the Chitta Transport workers supply contract Agency Account
- Ex M24 Xerox copy of the Chitta Transport workers supply contract Agency Account
- Ex M25 Balance sheet as on 31-3-93 of M/s V Dhan Reddy & Co
- Ex M26 21-9-98 Xerox copy of the challan of employee provident fund organisation
- Ex M27 2-6-98 Letter addressed to B Trinadha Rao by the Regional P. F Commissioner
- Ex M28 7-10-98 letter addressed to A Rehman by the Asst P F Commissioner
- Ex M29 30-5-95 letter addressed to B Trinadha Rao by the Regional P F Commissioner
- Ex M30 13-12-85 Xerox copy of the courage intimation.

Distt Baster (MP)

Versus

The General Manager,
Bailadila Iron Ore Project,
Dept No 14,
P O Kirandul,
Distt Bastar (MP)

Non-applicant

AWARD

Passed on this 16th day of July, 2001

1 The Government of India, Ministry of Labour, vide Order No L-26011/8/86-D-3B dated 11-5-88 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the General Manager, BIOP, Dep No 14, Kirandul in finally retiring Shri Pritam Mashi Master Shovel Operator with effect from 31-5-86 on the ground that he has attained the age of superannuation i.e. 58 years, particularly when his date of birth entered in the records is 19-12-1931 (43 years on 19-12-74) is justified. If not, what relief the workman concerned is entitled to?”

2 The case for the workman is that he joined as Shovel Operator Grade II in Kiriburu Iron Ore Mines under National Mineral Development Corporation on 5-8-1962. During the course of his employment, his services were transferred from Kiriburu Iron Ore Mines to NMDC Bailadila Iron Ore Project where he joined on 16-6-64. At the time of entering into the service, he was aged about 28 years. His actual date of birth is 15-9-34, but his date of birth was wrongly recorded by the management in his service record. On his representation the management got him medically examined by the medical officer to ascertain his age and on 19-12-74, his age was confirmed as 40 years by the Medical Officer. At the time of entering into service, his age was 28 years and on medical examination, his age was confirmed about 40 years on 19-12-74. In this way his date of retirement comes to 19-12-92 and not on 19-12-89. He was illegally retired from service w.e.f. 31-5-86 by the management which deserves to be quashed. At the time of entering into service, he had submitted his original certificate as a proof for his date of birth. Subsequently it appears that the management did not have any record of his date of birth and therefore on the basis of medical examination, his date of birth should have been entered as 15-9-34.

3 The workman further alleges that he has been illegally retrenched by the management prior to the date of attaining his superannuation in violation of Sec 25-F of the ID Act, 1947. He should have been retired from service w.e.f. 31-12-92 and not w.e.f. 31-5-86. He is therefore entitled to reinstatement with back wages for the period commencing from 1-6-86 to 31-12-92. He is also entitled to other monetary benefits available under rules.

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2383.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैलाडिला आयर्न ओर प्रोजेक्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-2001 को प्राप्त हुआ था।

[सं. एल-26011/8/86-डी-3बी]

बी.एम. डेविड, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bailadila Iron Ore Project and their workman, which was received by the Central Government on 14-8-2001.

[No L-26011/8/86-D-3B]

B M DAVID, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT

JABALPUR

Case No. CGIT/LC/R/60/88

PRESIDING OFFICER SHRI K M RAI

Shri Pritam Mashi,
through Secretary,
Baster Khadan Mazdoor Sangh (HMS),
2/B, New Colony,
PO Kirandul,

Applicant

4. The case for the management is that the workman joined the project of NMDC on 16-7-64 on transfer from, Kiriburu Iron Ore Mines. Because of his continuous absence and irregular service, his name was struck off from the rolls of the corporation w.e.f. 5-4-74. Subsequently he was re-appointed at Shovel Operator Grade I in Dec. 1974. On being re-appointed, he was directed to be medically examined by the medical officer. On 17-12-84, he was medically examined by the medical officer and he gave his age as 43 which was recorded in the Medical Certificate. Thereafter the management made a reference to Kiriburu Iron Ore Mine to furnish information regarding the date of birth of workman as recorded in the service record. The Assistant Manager of Kiriburu Iron Ore Mine informed vide letter dated 11-12-84 that the workman's date of birth was 1-6-28. It was also informed by the management that the workman had also worked in IME from 1943 to 1946, in Power Gas Corporation, Sindhi, from Jan. 47 to 53 in ACC, from 16-3-62 to 3-8-62 as Sr. Mechanic in Kiriburu Iron Ore Mine on 12-10-62. According to this information, the date of birth of workman was corrected as 1-6-28 in the service book. The workman was informed accordingly on 20-5-84. On 12-8-83, the workman requested the management to record the date of birth as 15-9-34 on the basis of birth certificate issued by the Sarpanch of his village. If this date of birth 15-9-34 is accepted to be true, then it will be clear that at the time of initial appointment his actual age was 9 years only. In this way prima facie this date of birth appears to be totally false which cannot be ascertained. The BKMS (HMS) Kirandul had also filed writ petition in the High Court of MP, Jabalpur praying that the order of retirement of the workman be quashed. The High Court dismissed this petition on merits. The workman was rightly retired from service w.e.f. 31-5-86 on the basis of his correct date of birth as 1-6-28. He is not entitled to any relief as claimed by him.

5. The following issues arise for decision in this case and my findings thereon are noted hereinafter :—

1. Whether the workman was illegally retired from service w.e.f. 31-5-86 ?

2. Relief and costs ?

6. Issue No. 1 :—The workman filed his date of birth certificate (Ex. M-IV) issued by the Sarpanch of Bitoch, Nagadia Punjab stating therein his date of birth as 15-9-34 and according to the workman, he joined his service as Shovel Operator Grade II in Kiriburu Iron Ore Project in 5-8-62 and at that time his age was about 28 years. No school certificate has been filed by the workman to establish his date of birth. The management's witness Shri G.B. Joshi has clearly stated in para 6 of his affidavit that prior to getting employed by the NMDC in 1962 the workman had worked in different organisations from 1943 till 1962. This statement has not been rebutted by the workman. In the light of this statement it is established that he had attained the age of majority in the year 1943

itself. In this circumstance, if his date of birth is accepted to be true as 1934 than at the time of appointment in 1943 his age appears to be 9 years only. In such a tender age, no person can be appointed in any sector. This very fact belies his version regarding the date of birth as 15-9-34. On the other hand, the service record of the workman maintained in Kiriburu Project proves his date of birth as 1-5-28 which cannot be rejected without any sufficient cause. This date of birth has been maintained by the public sector undertaking according to the statutory provisions. This fact is proved from the letter Ex. M-I also which was written to the Personal Officer, Bailadila Iron Ore, Kirandul. This information was submitted on the basis of record maintained by the Kiriburu Iron Ore Mine. Hence the correctness of the date of birth of workman as 1-5-28 cannot be doubted. He was therefore legally retired from Service with effect from 31-5-86.

7. Issues No. 2 :—In the light of my finding given on Issue No. 1, it is held that the workman was rightly retired from service w.e.f. 31-5-86 after attaining the age of 58 years. His correct date of birth was 1-5-28. He is therefore not entitled to the relief as claimed by him. The reference is accordingly answered in favour of the management and against the workman.

8. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K M. RAI, Presiding Officer

नई दिल्ली, 27 अगस्त, 2001

का. आ. 2384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/भ्रम न्यायालय हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2001 को प्राप्त हुआ था।

[सं. एल-22012/14/98-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 27th August, 2001

S.O. 2384.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 24-8-2001.

[No. L-22012/14/98-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE
BEFORE THE INDUSTRIAL TRIBUNAL-I AT
HYDERABAD

Present : Sri Syed Abdullah, B.Sc., B.L.,
Industrial Tribunal-I.

Dated : 23rd July, 2001

INDUSTRIAL DISPUTE NO. 5 OF 1999.

Between :

Workmen of Singareni Collieries
Company Limited, Kothagudem by
Coal Mines Employees Union (HMKP),
Panjagadda, Ramavaram, Kothagudem,
Khammam District through its
General Secretary Sri Bhupathi Appa Rao.Petitioner

AND

The General Manager (Personnel),
The Singareni Collieries Company Limited,
Head Office Kothagudem,
Khammam District.Respondent

Appearances :

Sri C. Niranjan Rao, Advocate for the Petitioner.

Sarvasri J. Parthasarathi, V. Hari Haran and A.C.
Sekhar Advocate for the Respondent

AWARD

The Government of India, Ministry of Labour, New Delhi by its letter No. L-22012/14/98-IR (CM-II), dt. 14-12-1998 referred the following Industrial Dispute under Section 10(1) (d) and 2A of the Industrial Disputes Act, 1947 to this Tribunal for adjudication :

“Whether the action of the management of M/s. S.C.C. Ltd., Kothagudem in invoking suspension of services for ten days of Smt. B. Devudamma, Sweeper is legal and justified ? If not, to what relief the workmen is entitled ?”

Both the parties appeared and filed their statements.

2. The workmen filed the claim statement and briefly stated the facts are as under :

The worker herein Smt. B. Devudamma, Sweeper (Night Soil) Ramavaram Dispensary, Singareni Collieries Company Limited, Kothagudem was served with a charge sheet alleging that she left the workspot without permission during the working hours which is a misconduct under Standing Order 25.34, vide No. CHK/P/9239 dt. 19-12-1996, was issued. An explanation was submitted and thereafter an enquiry date 1-1-1997 was ordered. The Medical Superintendent suspended the worker for 10 days w.e.f. 20-1-1997 to 29-1-1997, vide letter No. CHK/P-338 dt. 17-1-1997. The worker raised an industrial dispute before the Conciliation Officer. The Conciliation Officer gave the dates of hearing on different dates and at last the Conciliation Officer submitted failure report on 29-9-1997 to the Secretary, Government of India, Ministry of Labour, New Delhi and the Government is pleased to refer this dispute for adjudication to this Tribunal.

3. Infact the worker was on duty and during the visit of Sri K. Mukunda Rao, the then Additional Chief Medical

Officer on 18-12-1996 at 11.40 A.M. at the dispensary she was holding a broom and attending to the cleaning work. As such, the allegation that she left the duty without permission as alleged. Standing Order 25.34 is not applicable. The worker had put in 18 years of service and during her service there was no single remark against her. Even then the maximum punishment of 10 days suspension period imposed against her is unlawful. The enquiry findings are not correct. At the most the Management should have issued warning if at all there was any misconduct. Hence prayed to set aside the punishment in the interest of justice.

4. The Respondent-Management filed a counter and briefly stated averments are as under :

The reference is bad in law. The issue is of an admitted misconduct, that on 18-12-1996 the Additional Chief Medical Officer visited the dispensary at Ramavaram, belonging to the Respondent-Company and he found that the dispensary was closed. The staff consisting of Nurse, Clerk and Ayah, General Mazdoor and Scavenger (worker herein) were standing outside the dispensary. The timings are from 7.30 A.M. to 12.30 P.M. and from 3.00 P.M. to 6.00 P.M. The incident was at 11.30 A.M. The matter was reported to the Chief Medical Officer at Kothagudem who issued the charge sheet to the above erring staff and explanations were called for and also from the concerned Doctor of the dispensary. An enquiry was held. All the erring staff have admitted that they have closed the dispensary. It was their mistake and sought pardon of the mistake. Taking the lenient view, punishment of 10 days suspension was given to all the concerned staff. Infact the mistake was committed and the discipline showed by the staff is self-evident. In the explanation they stated that due to the monkey menace the dispensary was closed which is hardly tenable. Further the contention that no inconvenience was caused to any patient, is not at all tenable. After giving opportunity in the enquiry, the Enquiry Officer submitted his findings. The management was very considerate in retaining the worker in the same dispensary for over five years, on considering her request. Hence prayed to pass nil award in the interest of justice.

5. During the preliminary inquiry, the learned counsel for the petitioner has alleged that the domestic enquiry proceedings have to be set aside for the reason that as per the Section 76-B (xiii) of the Factories Act, the Welfare Officer cannot deal with the disciplinary cases and the Enquiry Officer happens to be Welfare Officer. It was found that the Enquiry Officer was not a Welfare Officer of the Respondent—Company and so the said objection was negatived. After perusing the enquiry record it was found that the enquiry was conducted duly following the procedure contemplated and that the worker also participated in the enquiry. As principles of natural justice was complied with, An Order dt. 5-2-2001 was passed holding that the domestic enquiry proceedings are valid.

6. The point for adjudication is whether the punishment of 10 days suspension period is justified or not ?

7. At the time of final arguments on the side of the Management Exs. M1 to M39 documents were marked which is the record relating to the enquiry proceedings.

8. The bone of the contention of the worker is that the punishment of 10 days suspension period not treating as on duty is disproportionate punishment to the gravity of the charge as framed against her which was said to have been held proved as per the enquiry findings. The reply of the Respondent for the above contentions is that there is an un-equivocal admission by the worker herein and also the other staff as to their lapse in closing the entire dispensary and leaving the workspot at the time of the visit of the Additional Chief Medical Officer who went on surprise inspection and when the entire staff including the Doctor, was caught red-handed of their absence of the closure of the dispensary during the office hours. It is highly deplorable that the employees have not maintained proper discipline and the indisciplined act cannot be viewed leniently. Otherwise the Standing Orders would become a farce or mockery.

9. Ex. M20 dt 19-12-1996 is the charge sheet issued to the worker herein alleging that during the inspection of Additional Chief Medical Officer on 18-11-1995 at 11.30 A.M. to the Dispensary at Ramavaram, Singareni Collieries Company Limited the said Officer had noticed that the Dispensary was locked at 11.30 A.M. This worker along with the other staff of the Dispensary, namely Smt. S. Bharathi, Clerk, Smt. K. Sumathi Devi, Staff Nurse, Smt. D. Rajeswari, Ayah and Smt. Ch. Poshamma, General Mazdoor were found outside the dispensary and that the dispensary was closed even before the scheduled timing which amounts to misconduct as per Standing Order 25.34 which reads that "leaving the work without permission". An explanation was called for, for which the worker submitted her explanation stating that all the employees were available at the time of the visit of Additional Chief Medical Officer except that the doors were closed, all were present and that the doors were closed to avoid the monkey menace. The management has ordered a regular enquiry against this worker and other workers. In the course of the enquiry, the Enquiry Officer had recorded the statement of Dr. K. Mukund Rao, Additional Chief Medical Officer. So also the statement of the delinquent worker.

10. The Management witness has stated that at the time of his visit to Ramavaram Dispensary, he found this worker and other workers were outside the Dispensary and the Dispensary was closed. The General shift duty timings were from 7.30 A.M. to 12.30 P.M. and from 3.00 P.M. to 6.00 P.M. leaving the workspot without permission is misconduct under Company's Standing Orders. The worker is an illiterate and the affixed her thumb mark on the statement recorded by the Enquiry Officer in which the statement is to the effect that she admitted the charges, and that she was not available at the place of work and left the workspot without information/permission from the concerned authority by closing the Dispensary room. She is fully aware of duty hours and she admits that it was a mistake for leaving the workspot without permission from the concerned authority for which she pleads excuse. The remaining documents pertain to other employees against who charge sheets were issued and also enquiry proceedings conducted. It is to be considered whether the misconduct is proved on the basis of evidence on record

and if it so the imposition of punishment of 10 days suspension is warranted by issuing Ex. M24. It can be said that the worker being an illiterate was coerced to admit the facts as stated therein. The statement of Dr. Mukunda Rao, C.M.O. is different from that of the statement of the worker recorded. Dr. K. Mukund Rao categorically stated that all the workers were present and they were outside the Dispensary and when he went there he found the door was locked but he did not said that any of the employees left the spot. At the most they have closed the dispensary one hour early and about to leave the spot which may be a bad practice or indiscipline. In this case the worker has no control over the maintenance of the timings, and somebody will be in charge. After all, the worker is a sweeper who has to attend to the sweeping work. When the responsible person had closed the doors of the Dispensary, it is surprising how she can be put to blame. The duties of a Sweeper is to sweep the premises before the commencement of the work and see that the premises are kept neat and clean. For the simple reason that she was found outside of the dispensary, it is atrocious to find fault with her. It can be said without hesitation that her statement Ex. M24 was recorded as if she has committed serious mistake for the absence was not available at the workspot and sought for an excuse. The findings given by the Enquiry Officer in Ex. M23 that the worker could not give any convincing reason for closing the doors of the dispensary and leaving the workspot without permission from her superiors is quite unreasonable. After all the worker being a sweeper, she cannot have any control over the opening or closing of the dispensary. A Sterio typed reasoning is given to all the workers. The reasoning given to this worker that the charges are proved beyond doubt is not sustainable. The management ought to have given a censor or warning for such a trivial lapse instead of holding a roving enquiry. It is also surprising that the worker was kept under suspension for 10 days. The suspension of the work warrants where public interest compels it. Generally an employee will be suspended so as to keep that employee from out of reach of the affairs of the office, so that the public interest may not suffer in holding the inquiry. The lapse on the part of the worker is not a grave or serious misconduct which warranted her to keep out of employment for 10 days by issuing the suspension order. However, even after the enquiry proceedings, the Management ought to have exercised its discretion in issuing a censor or warning for the trivial lapse that was committed by this worker and other staff instead of giving the punishment of 10 days suspension which amounts to discontinuance of service for 10 days and loss of wages for 10 days. It can be said without hesitation that the action of the management in imposing severe punishment of 10 days suspension from duty besides loss of wages for the said period is arbitrary and not in the interest of industrial peace and harmony. It is necessary to interfere and modify the punishment. It is observed that a futile exercise has been made in holding an enquiry against all instead of taking action against the persons who were responsible in exercising control over the staff. The entire exercise is just make 'digging the mountain for a mole' and it is hoped that in future the management will not waste good time

and expenditure. on trivial lapses and drive the workers from pillar to post.

11. In the result, an Award is passed setting aside the impugned order of 10 days suspension of duty by modifying it to as censor for the lapse on the part of the worker and thereby the management is directed to treat 10 days suspension period as on duty and continuity of service and she is entitled for the wages for 10 days less the subsistence allowance paid to her. The Respondent shall issue necessary orders to the workers Smt. B. Devudamma, Sweeper (Night-soil) Dispensary, Ramavaram, Singareni Collieries Company Limited, within 30 days of the publication of this Award.

Dictated to the Senior Stenographer, transcribed by him corrected by me and given under my hand and the seal of this Tribunal, this the 23rd day of July, 2001.

SYED ABDULLAH, Industrial Tribunal-I.

Appendix of Evidence.

No oral evidence held on both side.

Documents marked for the Petitioner-Workman :

NIL

Documents marked for the Respondent-Management :

Ex. M1	18-12-96	Inspection report submitted by Subramanyam to the Chief Medical Officer, Kothagudem.	Ex. M18	17-01-97	Order passed by Medical Superintendent treating suspension of Smt. Ch. Poshamma as not on duty.
Ex. M2	19-12-96	Charge sheet issued to Smt. K. Sumathi, Staff Nurse.	Ex. M19	20-01-97	Representation submitted by Smt. Ch. Poshamma.
Ex. M3	23-12-96	Explanation submitted by Smt. Sumathi to Ex. M2.	Ex. M20	19-12-96	Charge Sheet issued to Smt. B. Devudamma, Sweeper.
Ex. M4	28-12-96	Enquiry Notice.	Ex. M21	..	Explanation submitted by Smt. Devudamma to Ex. M 20.
Ex. M5	..	Enquiry Report.	Ex. M22	..	Enquiry Notice.
Ex. M6	..	Enquiry Proceedings.	Ex. M23	..	Enquiry Report.
Ex. M7	7-01-97	Furnishing the enquiry report calling for representation.	Ex. M24	..	Enquiry proceedings.
Ex. M8	11-01-97	Representation to exonerate the charge by Smt. Sumathi Devi.	Ex. M25	07-01-97	Letter issued to Smt. Devudamma calling for representation of the enquiry report.
Ex. M9	17-01-97	Order of suspension and permission to resume duty issued to K. Sumathi Devi by Medical Superintendent.	Ex. M26	11-01-97	Representation of Smt. B. Devudamma to exonerate her from charges addressed to the Medical Superintendent, Main Hospital, Kothagudem.
Ex. M10	..	Inspection report submitted by Subramanyam the Chief Medical Officer, Kothagudem.	Ex. M27	17-01-97	Order of suspension as not duty issued to Smt. B. Devudamma.
Ex. M11	19-12-96	Charge sheet issued to Smt. Poshamma. Genl. Maz.	Ex. M28	19-12-96	Charge Sheet issued to Smt. D. Rajeswari, Ayah.
Ex. M12	..	Explanation of Smt. Poshamma to Ex. M 11.	Ex. M29	..	Explanation submitted to Ex. M 28.
Ex. M13	..	Enquiry Notice.	Ex. M30	..	Enquiry Notice.
Ex. M14	..	Enquiry Report.	Ex. M31	..	Enquiry Report.
Ex. M15	..	Enquiry Proceedings.	Ex. M32	..	Enquiry proceedings.
Ex. M16	7-1-97	Letter of Medical Superintendent calling for the representation on enquiry report for Smt. Poshamma.	Ex. M33	07-01-97	Letter calling for the representation on the enquiry report from D. Rajeswari, Ayah.
Ex. M17	11-01-97	Letter of Smt. Poshamma to exonerate her from charge.	Ex. M34	11-01-97	Letter of Smt. D. Rajeswari requesting to exonerate her from charges.
			Ex. M35	17-01-97	Order passed by the Superintendent (Medical) awarding 10 days suspension as punishment to Smt. Rajeswari.
			Ex. M36	..	Representation submitted by Smt. D. Rajeswari to C.M.O., Singareni Collieries Company Limited, Kothagudem.
			Ex. M37	21-01-97	Representation made by the Coal Mines Employees Union to the A.L.C. (C) Vijayawada in the case of Smt. B. Devudamma.
			Ex. M38	24-09-97	Minutes of conciliation proceedings held on 24-9-97 before A.L.C. (C), Vijayawada.
			Ex. M39	20-02-97	Letter addressed by C.M.O. to the Medical Officer, Main Hospital, Kothagudem.
			Ex. M40	19-12-96	Charge Sheet issued to Smt. S. Bharathi, Clerk.

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Ex. M41	..	Explanation submitted by Smt. B. Bharathi, Clerk.
Ex. M42	07-01-97	Letter enclosing the enquiry report calling for representation on the enquiry report.
Ex. M43	..	Enquiry Proceedings.
Ex. M44	17-01-97	Order of the Medical Superintendent suspending Smt. B. Bharathi for ten days from 20-1-97 to 29-1-97.
Ex. M45	11-01-97	Representation submitted by Smt. S. Bharathi to exonerate her from charges.
Ex. M46	..	Representation submitted by Smt. S. Bharathi to the C.M.O., Main Hospital, Kothagudem.

नई दिल्ली, 27 अगस्त, 2001

का. आ. 2385.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. सी. एल. के प्रबंधन के संबंध में निम्नलिखित प्रयोगों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय, भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-01 को प्राप्त हुआ था।

[सं. एल-22012/348/99-आर्.आर.(सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 27th August, 2001

S.O. 2385.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MCL and their workman, which was received by the Central Government on 24-8-01.

[No. L-22012/348/99-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, BHUBANESWAR

Present :

Shri S.K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 345/2001

Dated, Bhubaneswar, the 10th August, 2001

Between :

The Management of Chief General Manager,
Jagannath Area of M.C.L., P.O., Balanda,
Dist. Angul, Pin-759 116 ... 1st Party Management
(And)

Their Workman represented through the
General Secretary, Jagannath Colliery
Labour Union, At/Po. South Balanda,
Dist. Angul (Orissa) ... 2nd Party-Union

Appearances :

Shri G.B. Mohapatra, Personnel
Manager, MCL, Jagannath Area ... For the 1st
Party-
Management.

None. ... For the 2nd
Party- Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-22012/348/99/IR (CM-II), dated 29-2-2000/7-3-2000.

"Whether the action of the management of Jagannath Colliery of MCL by deducting Rs. 50 from the salaries of the workmen led by Sh. K.B. Sahoo, General Secretary of Jagannath Colliery Labour Union is justified? If not, to what relief the workmen are entitled?

2. While making reference intimation was also sent to the Management and to the Union to file their respective Claim Statements before this Tribunal within fifteen days from the date of receipt of the reference. The reference was made on 29-2-2001/7-3-2001. The Tribunal on receipt of the reference also issued notices to the parties. In spite of direction of the Tribunal and the Government of India (Ministry of Labour), the Union has not made his appearance before the Tribunal and he has not filed the Statement of Claims. The Union also did not take any step to take part in the proceeding and to place his case before the Tribunal to answer the reference. Since, March 2000 the reference could not be answered in absence of the Union and for not taking any step by them.

3. The above circumstances would suggest that no dispute exists between the parties and the Union has got no cause of action and that the Union has got no materials in support of his case.

4. Hence, no dispute award is passed and the Union is not entitled for any relief.

5. The reference is answered accordingly.

S.K. DHAL, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2386 : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 16-8-2001 को प्राप्त हुआ था।

[सं. एल-12011/132/2000-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 16th August, 2001

S.O. 2386.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Nagpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12011/132,2000-IR(B-II)]
C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer

Reference No. 287/2000

THE ASSISTANT GENERAL MANAGER

AND

SHRI VILAS KADUSKAR

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub-Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-12011/132/2000-IR(B II) dated 21-9-2000 on following schedule

SCHEDULE

“Whether the action of the management of Bank of India, Nagpur in regard to Non-appointment to Shri Vilas Kaduskar, Cashier Category ‘C’ to Category ‘E’ at Pulgaon Branch as per his seniority is legal and justified? If not, what relief the said workman entitled to and from what date?”

This reference was received from Ministry of Labour, New Delhi on 29-9-2000 for adjudication on the issue of non appointment of Shri Vilas Kaduskar, Cashier Category-C to Category E at Pulgaon Branch as per his seniority. The workman has submitted his Statement to claim through Vinayak Joshi the General Secretary of the Union on 22-12-2000. The Written Statement was filed by the management of Bank of India on 25-5-2001.

Today the workman Vilas Kaduskar has moved the application that he does not want to contest the case and has withdrawn his claim regarding the settlement of issue of his appointment to Category-E on the basis of his seniority. The application has been submitted today by the workman's representative Shri Vinayak Joshi for the withdrawal of his claim. In view of the above facts the dispute has been settled between the management and the workman. The withdrawal application is allowed.

2742 GI/2001—22

The workman is not entitled to any relief claimed by him.

ORDER

The workman Vilas Kaduskar has withdrawn his claim. He is therefore not entitled to any relief claimed by him.

The reference is disposed of accordingly.

Dated :

B. G. SAXENA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2387 : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-01 को प्राप्त हुआ था।

[सं. एल-12011/120/2000-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 16th August, 2001

S.O. 2387.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12011/20/2000-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Presiding Officer : Rudresh Kumar.

ADJUDICATION

I.D. No. 41/2000

Ref. No. L-12011/20/2000/IR(B-II) Dated 30-5-2000

BETWEEN

Punjab National Bank Staff Association,
The Asstt. General Secretary, PNBSA
102 Patrika Marg, Civil Lines
Allahabad (U.P.) 211001.

AND

The Regional Manager,
Punjab National Bank,
Regional Office,
Arya Nagar Chowk, Jawalapur,
Hardwar (U.P.) 249407.

AWARD

By reference No. L-12011/20/2000/IR(B-II) dated 30-5-2000, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub section 2(A) of section 10 I.D. Act, (14 of 1947) made over the industrial dispute between Asstt General Secretary, Punjab National Bank Staff Association, Allahabad espousing cause of Jaspal Khillan and The Regional Manager, Punjab National Bank, Regional Office, Hardwar for adjudication. The reference is produced as under :

“Whether the action of the Management in imposing the penalty of Stoppage of one increment with cumulative effect of Shri Jaspal Khillan, clerk, is just, fair and legal? If not, what relief the workman concerned is entitled to and from what date?”

2. The workman, Jaspal Khillan, was posted at extension counter Mayapur, of the Punjab National Bank, as a Clerk/Cashier in November, 1993. He committed forgery by drawing Rs. 15,000 towards loan from Fixed Deposit Account No. 3790 in the name of Smt. Ram Pyari Devi and her son Hem Chand. In this process, he made fraudulent signature of Smt. Pyari Devi and withdrew Rs. 15,000 without her knowledge. On 7-7-1994, Smt. Ram Pyari arrived at the counter to obtain receipt of her F.D. as her son was ill and was informed about the loan. She started crying. Jaspal Khillan, sensing trouble, withdrew Rs. 45,000 from his joint account with his mother Smt. Kasturi Devi on 8-7-1994 and deposited Rs. 15,000 in the account of Smt. Ram Pyari. His conduct of illegally drawing Rs. 15,000 from the account of Smt. Ram Pyari by forging her signature was taken to be a grave misconduct inviting disciplinary enquiry and penalty as per provisions para 19.5(d) and 19.5(j) of the Bipartite settlement. A charge sheet was issued to him and domestic enquiry held.

3. In the course of enquiry, the workman denied allegations, Mr. G.K. Dora conducted domestic enquiry against him. Enquiry Officer recorded, finding of not guilty and submitted his report to the Disciplinary Authority.

4. The Regional Manager and Disciplinary Authority did not agree with findings of the Enquiry Officer. He, vide letter dated 2-3-1998 issued a show cause notice to the workman calling him to submit his reply within 15 days. This Show Cause Notice detailed points of disagreement, as under;

- "Enquiry Officer has held that Presenting Officer failed to prove that signatures on loan documents were forged and the report of the handwriting expert report simply denies that the signature of Smt. Pyari on MF-2 (payment voucher dated 3-11-93 for Rs. 15,000) and MF-4 (application for Demand Loan and letter of lien). Handwriting Expert is silent about whose signature these can be.
- In your reply dated 23-3-95 you have already admitted that the account holder was known to you and as per instruction of the Incumbent Incharge, you filled up the loan documents of Smt. Ram Pyari and issued her token after obtaining her signatures. The report of the documents were sent to Incumbent Incharge for sanction and passing of voucher. Report of the handwriting expert says that the signatures of loan documents have been put by a person other than the one who signed the specimen signature slip. This is clearly a contradiction what you stated in your reply dated 23-3-95. Here it can be questioned how the signature on loan documents can be of different person when you have already admitted having personally obtained her signatures on loan documents including the payment voucher.
- Secondly how can it be possible that on all the occasions as on 3-11-93, 30-11-93 and 7-2-94 all works relating to Smt. Ram Pyari were attended by you.
- Thirdly, you got the FDR discharged with date and not across the revenue stamp in contravention of bank guidelines.

The workman submitted his reply on 1-4-1998. On considering reply of the workman and perusing materials on record, the Regional Manager and Disciplinary Authority found the charges against the workman, fully proved. He, by order dated 29-12-98, held the workman guilty and imposed penalty. The order reads as under :

"On the charge being held proved, I impose upon you the major punishment of 'stoppage of one increment with cumulative effect' under clause 19.6(d) of First Bipartite Settlement as amended upto date and orders accordingly."

The workman filed appeal against the said order dated 29-12-1998 before the Appellate Authority. In his appeal, he explained facts, circumstances, and nature of evidence tendered against him with plea that the conclusion drawn by the Regional Manager Disciplinary Authority was unjust and

not sustainable in law. The Zonal Manager Merit as Appellate Authority vide order dated 24-5-1999 rejected the appeal of the workman and agreed with the punishment imposed by the Regional Manager on 29-12-98.

Aggrieved by this, this industrial dispute has been raised, on numerous grounds. The workman assailed findings of guilt recorded by the Regional Manager/Disciplinary Authority, but defended findings of the Enquiry Officer. A plea has also been raised that the Regional Manager has no authority to act as Disciplinary Authority. However, this controversy may be answered against the workman in view of delegation of powers and admittance of the workman, who taking him to the Disciplinary Authority filed appeal without questioning such authority.

The management on the other hand, raised preliminary objection that this dispute has been duly validly espoused, as required under the provisions of I.D. Act, 1947 and accordingly, it is submitted, as what has been referred to, by the appropriate government for adjudication, can not be termed as 'industrial dispute' as envisaged under the provision of the said Act. The management also justified findings recorded by the Disciplinary Authority to be just and proper, in totality of the facts and circumstances.

Coming to the preliminary objection, a glance over the definition of 'Industrial Dispute' is necessary. Section 2(k) defines industrial dispute as follow :

"Industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person."

The AIR management has submitted that the individual cases covered by section 2-A of the Act. According to him, dispute are not comprehended in above definition except this dispute is not covered by section 2-A of the I.D. Act as such remedy lies in the civil court.

This submission is misconceived. Section 2(k) refers to 'dispute or difference' between Nature of dispute or difference has not been specified, employing that an individual dispute is also covered by this definition. Section 2(k) also deals as who can espouse the cause arising due to dispute or difference. The section does not permit espousal of cause by an individual like section 2-A. Law is now settled, that any dispute or difference, whether individual or collective, if espoused by the union or substantial number of workmen, becomes an industrial dispute and so covered by the definition. The present case of the workman is espoused by the union and so perfectly valid. The preliminary objection questioning propriety or reference on the above said ground, is, this, has no force and is rejected.

It must be appreciated that the Disciplinary Authority had power under law to differ with findings of the Enquiry Officer. He was competent to evaluate materials placed during the enquiry in presence of the workman and his defence representative. Exercising this power, the Regional Manager Disciplinary Authority disagreed with the findings recorded by the Enquiry Officer and communicated all points of disagreement in show cause notice to the workman.

The workman conceded that the enquiry was fair and proper upto the stage of Enquiry Report and illegal and unjust thereafter. He participated in the enquiry, cross examined the witness and put forward his all submissions. Nothing is shown that the Enquiry Officer did not follow rules of natural justice or failed to observe prescribed procedure of domestic enquiry. Enquiry, thus, was fair and proper. As observed earlier, the Disciplinary Authority also acted within his competence to communicate points of disagreement and after due hearing recorded findings of guilt.

The materials on record justifies the findings of the Disciplinary Authority. There are contradictions in written reply of the workman and his subsequent pleas. His identity in dealing with the loan documents is fully established by evidence as well circumstances. Smt. Ram Pyari pointed towards the workman, that he dealt with her loan papers and obtained signatures, etc. Taking of loan for Rs. 15000 from

loan account without her knowledge is an accomplished fact. Likewise, depositing of Rs 15000 by the workman in her account immediately, the matter came to notice give inference that none else than the workman had illegally withdrew Rs 15000. Substantive proof is on the record that the workman withdrew Rs 45000 from his account and deposited Rs 15000. If he had not taken loan, what persuaded him to deposit the money.

All the facts and circumstances, lead to the probable presumption that the workman had illegally withdrew money from the account of Smt Ram Piyari. In this back ground, the signatures on the documents have to be seen. The Disciplinary Authority rightly concluded against the workman and passed punishment order. The punishment, on the face of it is on lower side if viewed in light of grave misconduct involving forgery etc.

Viewed so, the action of the management is justified in imposing the penalty of stoppage of one increment against the workman. There is no unjustification or illegality.

Award accordingly.

7-8-2001

LUCKNOW

RUDRESH KUMAR Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का आ 2388 आयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबंधन के संबंध में जहाँ और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट आयोगिक विवाद में केन्द्रीय सरकार आयोगिक अधिकरण/श्रम न्यायालय नागपुर के पचाट का प्रकाशित करती है, जो केन्द्रीय सरकार का 16-8-01 का प्राप्ति हुआ था।

[स एल-12011/30/99-आई आर (बी-II)]

श्री गंगाधरन, अवर सचिव

New Delhi the 17th August, 2001

SO 2388—In pursuance of Section 17 of the Industrial Dispute Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court, Nagpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 16-8-2001.

[No L 12011/30/99 IR(B II)]
C GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NAGPUR

PRESENT

Shri B G Saxena, Presiding Officer
Reference No CGIT 8/99
Central Bank of India

AND

Shri N S Manthapurwar & 16 others

AWARD

The Central Government, Ministry of Labour, New Delhi hereby exercising the powers conferred by clause (d) of Sub Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act 1947 has referred this dispute for adjudication by order No L 12011/30/99 IR(B II) dated 12/16-08-99 on following schedule

SCHEDULE

With the consent of management of Central Bank of India Nagpur through its Zonal Manager, Oriental Building Central Bank of India, Regional Office, Opp Bhat Taks, Kumbhstee Road, Nagpur in not granting Special Medical Leave to Shri N S Manthapurwar and 16 other workmen (as per Annexure B of Central Bank of India, Nagpur as they were victims of jaundice due to unhygienic drinking water provided to them is legal, proper and justified? If not to what relief are these workmen are entitled to?

In this reference the dispute is on the point of granting of special medical leave to N S Manthapurwar and 16 others workmen who are alleged to be suffering from Jaundice. This case was received in this court and notice was issued to the parties on 24.11.99. The affidavit of the workmen were filed in this court on 28.11.2000 but after that both the parties absented on 11.01.2001.

Today also both the parties are absent. Neither any representative appeared from the side of the workmen to conduct the case nor the counsel for the management Y. M. Ingol appeared. He also did not submit the counter affidavit from the side of management.

On 19.02.2001 both the parties were absent. Again on 24.07.2001 both the parties were absent. The case was adjourned to 29.05.2001. On this date i.e. 29.05.2001, no witness turned up for cross examination. The union representative of the workmen or the counsel for the workmen also did not turned up to conduct the case. Even, the representative of the management also did not turned up and the case was fixed to 27.06.2001 for further orders.

On 22.05.2001 none of the witnesses who have filed affidavit came to the court to stand cross examination. Nobody appeared from the side of the workmen to conduct the case. As the witnesses did not stand cross examination, their affidavits cannot be taken in evidence.

The management has also not filed any counter affidavit.

The above circumstances shows that the both the parties are avoiding to produce the evidence. The workmen are therefore not produced satisfactory evidence regarding their illness.

In view of the above circumstances when the workmen are avoiding to prove their claim the reference should be disposed of without prosecution.

ORDER

The reference is disposed of for want of prosecution as the workmen and their union representative have avoided to produce satisfactory evidence to prove their claim. The workmen are therefore not entitled to any other relief. The reference is disposed of for want of prosecution.

B G SAXENA Presiding Officer

Dated 24.07.2001

नई दिल्ली, 17 अगस्त, 2001

का आ 2389 आयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बांग्लादेश के प्रबंधन के संबंध में जहाँ और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट आयोगिक विवाद में केन्द्रीय सरकार आयोगिक अधिकरण/श्रम न्यायालय नागपुर के पचाट का प्रकाशित करती है, जो केन्द्रीय सरकार का 16-8-01 को प्राप्ति हुआ था।

[स एल-12011/30/99-आई आर (बी-II)]

श्री गंगाधरन, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2389.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Nagpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12011/101/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT:

Shri B. G. Saxena, Presiding Officer
Reference No. CGIT : 6/2000
Deputy General Manager,
Bank of Baroda.

AND

Shri M. N. Sonkusare.

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-12011/101/99-IR(B-II) dated 13-12-99 on following schedule.

SCHEDULE

"Whether the action of management of Bank of Baroda through his Dy. General Manager (Mah. & Goa Zone) Pune in not considering the application of Shri M. N. Sonkusare, for the appointment of Head Cashier Cat-'C' in Kuhl Branch against the Circular No. RM/V & M. PD/CIR/90/42 dated 20-08-98 is legal, proper and justified? If not so what relief the said workman is entitled to?"

The workman M. N. Sonkusare has submitted statement of claim that he was appointed as Clerk-cum-Typist in Bank of Baroda vide order dated 17-04-84. His designation was Clerk-cum-Typist but he never worked as Typist. He worked several times as Cashier. He was sent for training for Cashier for 2 days from 1-6-1995 to 3-6-1995. There was a clear vacancy of Head Cashier, Cat-'C', he is therefore entitled for appointment as Head Cashier, Cat-'C' in Kuhl Branch of Bank of Baroda. The management of bank has contested the case on this ground that those who are appointed with designation Cashier (Clerk or Cashier) have to deposit security amount at the time of joining. The workman was not appointed as Cash Clerk or Cashier so he is not entitled for appointment as Head Cashier, Cat-'C'. Those clerks who are holding designation of Clerks/Clerk-cum-Typist/Accounts Clerk-cum-Cash Clerk and have been posted in Accounts Section for a minimum period of one year can apply for the post of Accounting Machine Operators. They cannot be considered for the post of Head Cashier, Cat-'C'.

I have considered the arguments of both the parties and the evidence of record. Both the parties have submitted their written arguments through their advocates. The workman M. N. Sonkusare had submitted his affidavit and he was cross examined by the counsel for management on 10-01-2001. From the side of management the statement of Arvind Katkar was recorded. He was cross examined by the counsel for workman on 27-03-2001.

In his statement the workman M. N. Sonkusare admitted that he was appointed as Clerk-cum-Typist. Still he is working on the same post i.e. Clerk-cum-Typist. He says that he has taken the training of Cashier from 01-06-95 to 03-06-95. He had applied for the post of Head Cashier in 1998 but he was not appointed as Head Cashier. He also admits that he had not deposited cash security when he was appointed. He does not know whether any cash security is taken by the bank from those clerks who are appointed as Cashier or

Cash Clerk. He was not eligible for Head Cashier, Cat-'C' and his application for appointment on this post was cancelled by the management.

Arvind Katkar the another clerk examined by management stated that M. N. Sonkusare was appointed as Clerk-cum-Typist on 17-04-84. He had not worked in Cash Department in Nasik. Those clerks who are appointed in cash department as Cash Clerk have to deposit security amount. He stated that M. N. Sonkusare has not worked in cash department on the bank any time. He is only working as a Clerk in the bank. This witness was produced by the management and was cross examined by the counsel for the workman.

From the above evidence and documents on record it is therefore clear that M. N. Sonkusare had not deposited any security amount which is obtained by the bank for the post of Cashier or Cash Clerk. His 3 days training for Cashier as a routine matter and for having this training he cannot claim the post of Head Clerk. As this workman had worked sometimes for remittance of cash so he was sent for 3 days training. He was sent in a routine manner and so he did not change his designation as Clerk-cum-Typist. Vide Letter No. BR/KOHL/STAFF/1004, dated 16-02-99 the Branch Manager had informed Shri M. N. Sonkusare that the matter was referred to higher authorities and they have instructed that M. N. Sonkusare can not be allotted the duty of a Cashier as his designation was Clerk-cum-Typist. It is therefore clear that M. N. Sonkusare was not found fit and eligible for the post of Cashier. In these circumstances the management has rightly rejected his application for appointment as Head Cashier, Cat-'C'. There is no illegality in the order of the management.

ORDER

The action of the management of Bank of Baroda through its General Manager (Maharashtra and Goa Zone) Pune in not considering the application of M. N. Sonkusare for the appointment of Head Cashier, Cat-'C' is legal, proper and justified. The workman is not entitled to any other relief.

The reference is answered accordingly.

B. G. SAXENA, Presiding Officer

Dated : 4-7-2001

नई दिल्ली, 17 अगस्त, 2001

का.आ. 9390 : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधीकरण/श्रम न्यायालय बेंगलूर के पंचाट को प्रकाशन करती है, जो केन्द्रीय सरकार को 16-8-01 को प्राप्त हुआ था।

[सं. एल-12012/130/97-आई आर (बी-II)]

सी. गंगधरण, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2390.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 16-8-2001.

[No. L-12012/130/97-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BANGALORE

Dated : 3rd August, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni B. Com., LL.B.,
(Presiding Officer).

CGIT-cum-Labour Court, Bangalore.

C R. No. 243/97

I PARTY:

The General Secretary,
Dharwad District Bank Employees Association,
No. 9, Corporation Building, Broadway, Hubli.
(Advocate : Shri Ram Rao)

II PARTY:

The Zonal Manager,
Indian Bank, Personal Department,
Zonal Office, Raheza Towers,
4th Floor, East Wing 26-27,
M.G. Road, Bangalore.
(Advocate : Shri Ramesh Upadhyaya)

AWARD

1. The Central Government by exercising the powers conferred of clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this disputes vide order No. I-12012/130/97-IR(B-II) dated 23-6-1997 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Indian Bank in keeping the workman Shri B. M. Krishnamurthy under suspension for 15 years, denying him subsistence allowance and imposing a punishment of reduction in pay and treating the suspension period as suspension period only is proper, legal and justified ? If not, to what relief the said workman is entitled ?"

2. First Party was working with the management. First party was placed under suspension for 15 years denying his subsistence allowance and imposing a punishment of reduction in pay and treated the suspension period as suspension period is not proper and therefore industrial dispute was raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party union in brief is as follows :

5. The first party workman was kept under suspension for more than 1-1/2 decades without any reasons. First party joined the services at Dharwad as Clerk and has been served the bank sincerely, honestly and diligently. Some biased allegations were made against him and enquiry was conducted. But the same is not correct. Regarding enquiry so many things are said alleging that enquiry is not fair and opportunity was not given. The first party workman filed a Writ Petition before the Hon'ble High Court of Karnataka as stated in the Claim Statement. The disciplinary proceedings were not correct and the punishment is not proper. First party union has prayed to pass award in its favour.

6. The case of the second party in brief is as under :

7. The claim is not maintainable. It is the case of the Second Party that the Workman is promoted as an officer and is working as an Assistant Manager at Shimoga Branch. He is not a workman. Therefore the dispute is not maintainable. The workman was suspended for misappropriation

of the funds deposited by the customer and a police complaint was also filed. The employee himself has admitted in his letter dated 27-7-1978 and 3-12-1990 and confessed to have committed the acts alleged in his letter sent to head office on 5-7-1978 that he is aware that the act committed by him is punishable. The charges were misappropriation of funds. The action of the management is correct.

8. Regarding misappropriation details are given by the management.

9. The punishment was awarded after departmental enquiry was conducted and charges were proved. The employee is not eligible for subsistence allowance as alleged by him. For these reasons and for some other reasons the second party has prayed to reject the reference.

10. It is seen from the records that on 11th November 1998 three issues were framed :

- (1) Whether the first party proves that the Dharwad District Bank Employees Association had a representative capacity to raise an industrial dispute?
- (2) Whether the first party proves that he is a workman as defined under the Industrial Disputes Act 1947?
- (3) Whether the Second Party proves that they have conducted Domestic Enquiry in accordance with the settled principles of law and the Enquiry Officer followed the principles of natural justice? What Order?

11. It is further seen from the records that on 10th August 1999 first party union conceded the validity of DE and thereafter the matter was posted for arguments.

12. I have heard arguments in detail. I have perused the Written Arguments filed by the first party union.

13. In the instant case the first party union has conceded the fairness of the domestic enquiry. In view of this, now this tribunal has little discretion that too for a punishment imposed by the management treating suspension period and deduction in pay. Absolutely there is no material before us to say the finding of the enquiry authority is perverse.

14. For misconduct, the management has already taken lenient view and minor punishment is imposed. There are no grounds to interfere with the minor punishment imposed by the management on the workman.

15. I am told that the workman has been promoted as an Officer and still working with the management. Absolutely there is no material to say that the report of the enquiry officer is perverse and the findings are not correct.

16. I have carefully gone through the written arguments and the lists of citations given in this case. On perusing the written arguments, it is clear that it is nothing but representation of Claim Statement and narrating the history of litigation. There is no merit in the dispute.

17. I have carefully gone through the citations given by the learned counsel for the Second Party. Keeping in mind the principles held in the above decisions relied by the Second party and on facts I am of the opinion that the management is correct in imposing the minor punishment.

18. Considering all this I am of the opinion that there is no merit in this reference and I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 3rd August 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2391: औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध निराकरण और उनके कर्मचारियों के बीच, अन्वंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[स. एन.-12012/183/89-आई प्रार (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2391.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 16-8-2001.

[So. L-12012/183/89-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 2nd August, 2001

PRESENT :

Hon'ble Shri V.N. Kulkarni, B.Com., LLB., Presiding
Officer.

CGIT-CUM-LABOUR COURT, BANGALORE

C. R. No. 76/98

I PARTY

The General Secretary,
Syndicate Bank Association,
S.C. Road,
Bangalore-9
(Advocate—Shri A. Srinivas Aloc,
General Secretary.)

II PARTY

The Chairman,
Syndicate Bank,
Head Office,
Bangalore

Advocate Shri Ramesh Upadhyaya)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute to order No. 1-12012/183/89-IR(B-II) dated 25-7-1989 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the Management of Syndicate Bank in not entrusting the cash duties to the workman, Mrs. Jacintha Gonsalves, clerk, Super Market, Hubli Branch is justified? If not, what relief the said workman is entitled to?"

2. The first party Union workman is working with the second Party. Her grievance is that she was not entrusted

cash duties and therefore industrial dispute was raised and the competent authority referred the dispute to this tribunal.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party union is as under:—

5. Mrs. Jacintha Gonsalves was working as Clerk at the Second Party Bank and she was transferred to Super Market Hubli Branch on 8-6-1987.

6. It is the further case of the Union that management issued circular under reference No. 128/87/BC/PD/18/IRS dated 18-4-1987 formulating the Rules and Regulations for periodical rotation of jobs carrying special allowance. Cashier job also carries a special allowance of Rs. 189 p.m. at the relevant time and the Circular No. 128/87 laid down the following procedure for rotation of cashiers duties at the branches. The union has given details as under :

"The cashier's duties shall be entrusted by rotation once in every six months among the clerks in the order of their Branch Seniority. The entrustment shall be by an order in writing and in the event the Senior Clerk expresses unwillingness or refuses to handle cash the same shall be recorded and duties shall thereupon be entrusted to next senior most clerk. Unwillingness or refusal to handle cash shall disentitle the Clerk concerned to claim the entrustment during the particular period of six months and his/her chance will come only when his/her turn comes by rotation".

7. It is the further case of the Union that the Super Market Hubli Branch was maintaining a panel for entrustment of cashiers duties and name of Smt. Jacintha Gonsalves was added to the panel as soon as the joined the branch on 8-6-1987 and she was placed at place No. 21 in the panel. A cashier post fell vacant on 1-12-87 at Super Market Branch, Hubli and the job was offered to Shri M.V. Jagirdar. When he refused/declined the job it was offered to Smt. Indira Kulkarni. When she also refused the job it was offered to her next seniormost i.e. Smt. S. V. Kamalapur. Since Smt. S. V. Kamalapur also declined the offer Shri Ashok L. Tibeli who was 20th man in the panel was offered with cashier's job with effect from 1-12-1987.

8. It is the further case of the first party union that whenever the permanent cashier goes on leave his/her job will be temporarily entrusted to the next seniormost in the panel. The first party employee being the next senior most in the panel, she was entrusted with temporary cashier's duties on 10-12-1987 and 11-12-1987 i.e., when the permanent cashier went on leave.

9. It is the further case of the union that two more cashier's post fell vacant on 1-3-1988 at Super Market Hubli Branch. As per the seniority list/panel maintained by the branch, cashier's job was offered to Mrs. Jacintha Gonsalves, the first party employee, who was listed at place No. 21 in the panel. First party employee performed cashier duties on 1-3-1988 and however she was divested to the cashier's duties on 2-3-1988 and her job was once again offered to Smt. Indira Kulkarni who declined the offer once on 1-12-1987.

10. It was the further case of the first party union that First party employee was the lone Association Member working at Super Market Hubli Branch at the relevant time. As she was the lone Association Member working at Supermarket Hubli Branch, she was subjected to humiliation and harassment at the branch by the members of rival union and as part of the harassment programme, duly once entrusted as per the branch seniority panel by the Local Management was divested at the behest of rival union members.

11. The case of the Second Party in brief is as follows:

12. It is true that the Circular 128/87/BC detailing the procedure was issued. There were some queries from the Branches employees, regarding the implementation of the said circular and therefore the management issued one more circular No. 0032/SPC/PDIRD/87 dated 30-9-1987.

13. It is true that the first party was transferred to Super Market Hubli Branch on 8-6-1987. The said branch was maintaining a panel for entrustment of cashier duties and as per the guidelines contained in the circular dated 30-9-87, if a clerk joins the Branch during the currency of a panel,

he/she will be placed in the panel just above the person who is performing the duties at the time of his/her joining the branch. When the first party employee joined the Branch, three clerks were functioning: the duties of the cashier and they were Sri S S Bhat (SI No. 8 in the panel), Smt S D Bhat (SI No. 10 in the panel) and Sri R D Deshpande (SI No. 15 in the panel). Hence as per the guidelines of the Circular dated 30-9-1987, the name of the first party workman just above the name of Sri S S Bhat. To clarify the position, she was given the SI No. 7A in the panel, and her turn for entrustment of cash duties will be after all the persons mentioned in the panel from SI No. 14 to 20 and persons mentioned under SI No. 1 to 7 completing their respective turn. Hence there were three cashiers at the Branch. The two cashiers were to be rotated on 1st September and 1st March and another cashier was to be rotated on 1st June and 1st December. The term of S S Bhat (SI No. 8) and Smt S D Bhat (SI No. 10) ended on 31-8-87. As Shri R N Bagade (SI No. 14) expressed his unwillingness to function as a cashier, cash duties were entrusted to Shri M S Raiker (SI No. 15) and Shri S K Joshi (SI No. 16) for a period of six months from 1-9-1987 to 28-2-1988. The term of Shri R D Deshpande who was also acting as a cashier when the first party joined the Branch ended on 30-11-1987. Hence the entrustment of cashier duties was made on 1-12-1987 and was offered to Shri V M Jahagirdar (SI No. 17). When he expressed his unwillingness, cash duty should have been to Smt Indira P Kulkarni (SI No. 18), but the branch by oversight offered it to Smt S V Kamalpur (SI No. 19). As she expressed her unwillingness, it was entrusted to Shri Ashok L Tibeli (SI No. 20) with effect from 1-12-1987. The averment of the first party in her Claim Statement that the cash duty was offered to Smt Indira P Kulkarni (SI No. 18) and she refused to accept it is denied. On the other hand, she has submitted letters dated 2-12-1987 and 12-12-1987 informing the local Management that the management has ignored her seniority and requested to entrust the cash duties to her. The Manager while accepting the lapse assured her to entrust the cash duties at the time of next rotation of cash duties.

14 It is the further case of the management that as per the guidelines in Cir No 128/87/BC during the leave vacancy or absence of regular incumbent cash duties shall be entrusted temporarily to the next senior most clerk in the list panel. The temporary entrustment made to the first party on 10-12-87, 11-12-87 and 1-3-88 was not based on seniority but by oversight. Smt Indira P Kulkarni on 1-3-1988 again submitted a letter informing the management about ignoring her seniority and requested to entrust duty to her.

15 It is the further case of the management that the cash duties entrusted to persons under SI No. 15 and 16 came to an end on 28-2-1988. The contention of the first party that she was offered cashier's job as per the seniority list on 1-3-1988 is denied. The Branch by oversight, entrusted temporarily, cashier's duty to her 1-3-1988. As Smt Indira P Kulkarni (SI No. 18) was not entrusted with cash duty when her turn came, the Branch entrusted the duties to her on 2-3-1988. It is again denied that Smt Indira P Kulkarni had expressed her unwillingness to function as a cashier on 1-12-1987. The remaining employees in the panel became eligible for entrustment of cashier duties on the dates mentioned therein.

16 The averments made in para 7 of the Claim Statement are not acceptable to the Second Party and the same is denied. The first party will be put to strict proof of the same. The contention taken by the second party before the AIC(C) are true and correct. On the other hand, the contentions taken by the first party are not true and Mrs Indira P Kulkarni not declined the offer of cashier's duties on 1-12-1987 as there was no offer for her on 1-12-1987. It is true that the cash duties were offered and was declined by Smt S V Kamalpur on 1-12-1987. The offer it was entrusted to Shri Ashok L Tibeli. The contention of the first party that she was the next senior most in the panel is denied.

17 It is the further case of the management that the dispute is not of all Industrial Dispute as it is only an internal arrangement of the bank. The Claim of the workman is not correct. Management for these reasons has prayed to reject the reference.

18 Management examined Shri Dinesh Puri, Sr. Branch Manager, Hubli. The first party union has not adduced any evidence. Thereafter the matter was posted for arguments.

19 I have heard both sides and I have considered all the relevant documents and circulars.

20 MWJ has given detailed evidence about the procedure followed for entrustment of cash work to the Clerks. There is no reason to discard his evidence. From his evidence it is clear that the entrustment of cash duty was properly given and it was in accordance with the seniority panel prepared by the bank. It is cross examined at length but he has again stated the procedure followed by the bank. According to the evidence of MWJ the name of the first party workman does not come at SI No. 21 at all.

21 I have carefully perused the circulars and in my opinion the entrustment of cash duty was given as per seniority list. There is no humiliation or harassment to the first party workman.

22 I was told by the learned counsel for the management that the workman is now promoted and she is an Officer.

23 It is clear from the records and evidence that the entrustment of cash duties was only an internal arrangement of the bank and in my opinion is strictly maintained as per the seniority panel and in my opinion there is no merit in this dispute at all. Accordingly I proceed to pass the following order.

ORDER

The reference is rejected.

(Dated to PA transcribed by her corrected and signed by me on 2nd August 2001)

V N KULKARNI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का आ 2392 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार पञ्जाब नेशनल बैंक के प्रबन्धन के मद्द्द नियोजको और उनके कर्मचारियों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जवाहरपुर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-01 को प्राप्त हुआ था।

[स एन-12012/229/90-आई आर (बी-II)]

सी गंगाधरण, अवसर सचिव

New Delhi the 17th August, 2001

SO 2392—In pursuance of Section 17 of the Industrial Dispute Act 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman which was received by the Central Government on 07-08-2001.

[No L-12012/229/90-IR(B-II)]

C GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No CGIT/LC/R/238/90

Presiding Officer Shri K M Rai
Shri Praresh Chandani

B 16/172, New Bazar
Bhopal-462030

Applicant

The Regional Manager,
Punjab National Bank,
Bhopal Region,
4, Sikharvatta Bhawan,
Bhopal.

.... Non-applicant

AWARD

Passed on this 23rd day of July, 2001

1. The Government of India, Ministry of Labour vide order No. L-12012/229-IR(B-II) dated 6-12-90 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of Punjab National Bank in dismissing the services of Shri Prakash Chandani is justified? If not, to what relief is the workman entitled?”

2. The case for the workman is that on 28-3-92, he was appointed as clerk-cum-cashier and posted at Bairagarh, Bhopal branch of the Bank. After the completion of probation period, he was confirmed on 28-9-92. On 23-10-95, he was suspended on the false charge of threatening the Branch Manager to cause injury to him. The management conducted the DE and dismissed him from service on 29-6-96. The reference was made before this tribunal for the adjudication regarding the illegal termination of the workman by the management and this court quashed the dismissal order vide award dated 24-3-99. He was reinstated with all back wages and posted at Douraha branch of the bank. Due to this order of the tribunal the management felt annoyed and started harassing him. During his posting at Douraha branch he found that the Branch Manager Shri S. W. Chaprokar was engaged in all sorts of illegal activities in order to benefit himself. He never agreed to verify the illegal transaction done by the said Branch Manager and therefore he started threatening to cause bodily injury to him. Thereafter he made a complaint to the Regional office for taking necessary action and subsequently the Branch Manager Shri S. W. Chaprokar was suspended w.e.f. 19-12-80. After his suspension, Shri Chaprokar abetted the unwanted persons to cause injury to him during the bank hours and consequently he was assaulted inside the Bank by the assailance. The report was lodged with the police and a criminal case was registered against Shri Chaprokar and other criminals. After this incident, he was transferred to the Branch of the Bank at Dewas. Due to the intervention of the Union, he was again transferred to the Govindpura, Bhopal branch.

3. The workman further alleges that on account of his efficient performance in the bank he was promoted and posted as special assistant in Piparia branch of the Bank. On his information, case under Section 409 of IPC was registered against the Branch Manager of Piparia Shri M. D. Malhotra by Police Station, Piparia. Due to this fact, the Branch Manager got the workman suspended on illegal grounds. Subsequently his suspension was revoked by the management. On 26-3-84, a chargesheet was served on him regarding the illegal payment of Rs. 1000 and Rs. 775 in respect of Saving Bank Account No. 22227 and 10387 of Govindpura Bhopal Branch. After receiving the chargesheet he applied for the relevant documents in respect to the withdrawal of the said money but those documents were not supplied to him for submitting proper explanation. The Departmental Enquiry was conducted against him on the false charge and the adequate opportunity of putting his defence was not afforded. He was not allowed to engage the Assistant to defend his case properly before the enquiry officer. The DE was conducted against him in the absence of his defence Assistant and therefore he could not defend his case properly. The Enquiry Officer did not allowed to put up the relevant question to the prosecution witnesses which caused prejudice to him. On 12-3-85, the Enquiry Officer proceeded *ex parte* against him in spite of the request to adjourn the hearing for some other date. The workman made a repeated request for a handwriting expert to cross examine the prosecution handwriting expert which was refused by the Enquiry Officer without any sufficient cause. The Enquiry Officer submitted his report to the Disciplinary Authority for needful action. The enquiry proceedings ended on 5th May 1987 without giving the sufficient opportunity to the workman to defend his case properly. The Disciplinary authority accepted the report of the Enquiry Officer and passed the dismissal order against him which is not just and proper.

4. The workman further alleges that the alleged charge was not proved against him on the material on record and even then the Enquiry Officer held the charges proved against him. The payment was made to the Saving Pass Book holder as per the rules of the Bank and no irregularity was committed in this respect. He was not given the opportunity by the Enquiry Officer to produce his defence evidence during the enquiry proceedings. The Enquiry Officer acted against the principles of natural justice. No reason was mentioned in the show cause notice served on the workman. He was not given the opportunity of personal hearing by the Appellate Authority and therefore he could not defend his case properly. The entire DE was conducted against him in a biased and prejudicial manner. The management was determined to remove him from service as he was not ready to join with them as a party in their illegal activities in the working of the Bank. This has caused the dismissal of service. The order of dismissal therefore deserves to be quashed. He is entitled to reinstatement with back wages.

5. The case for the management is that the workman while working as Assistant in the Bank, was served with a chargesheet dated 26-3-84 whereby he was alleged to have committed serious acts of misconduct as under:—

That on 26-2-82 when he was working as teller at Govindpura Bhopal a person namely Shri Ram Awatar approached you for withdrawing a sum of Rs. 1000 from SF A/C No. 2227 in the name of Shri Mahendra Sinha and presented a withdrawal slip for the amount duly signed by the account holder along with the said pass book of the said account. On that day you informed the bearer that the signatures of the account holder on the instrument (withdrawal slip) did not tally with the signatures held on Bank's record and hence the payment was not made to the bearer. You are reported to have torn the withdrawal slip the top portion giving an impression that the withdrawal slip had been destroyed. Later in the day the Account holder Shri Mahendra Sinha came to the Branch along with the bearer of previous withdrawal slip and withdrew the amount of Rs. 1000 by presenting another withdrawal slip. However, you retained the mutilated withdrawal slip presented by the bearer with you.

Subsequently on 8-6-82, you made payment of Rs. 1000 to one Ashok on the basis of the withdrawal slip dated 26-2-82 in the aforesaid manner. The payment on 8-6-82 was made though the relative pass book did not accompany the withdrawal slip and though the withdrawal slip bore on the back and signature of two persons besides those of the Account holder.

The details/facts narrated above show that you are instrumental for preparation of the fraud in the account which is a Gross Misconduct in terms of the Bipartite settlement.

Fraud in SF A/C No. 10387 in the name of Mrs. Leela Singh. That on 1-6-83, when you were working as teller in the Mobile Bank of the Govindpura, Bhopal, you made payment of Rs. 775 in SF A/C No. 10387 in the name of Mrs. Leela Singh against a withdrawal slip though the signature of the depositor on the instrument (withdrawal slip) differ significantly both flow and style and the pass book did not accompany the withdrawal slip. As such, you failed to observe the procedural instructions laid down in the Banks book of instructions to safeguard Bank's interest.

Your action in making payment in the aforesaid manner has been detrimental to the interest of the Bank involving the Bank in financial loss and tantamounts to Gross Misconduct in terms of the Bipartite settlement.

6. The workman was called upon to submit his explanation regarding the charges levelled against him. He did not submit his reply to the charges in spite of the reasonable time was given to him for the said purpose. The management thought it proper to hold the DE against him and consequently the Enquiry Officer was appointed and the workman was served with a notice to appear before him for participating in the Enquiry Proceedings. The workman participated in the Enquiry Proceedings and cross examined the prosecution witnesses to prove his defence. He was given all the copies of the relevant documents on which the management had relied and which were essential for proper determination of the Enquiry proceedings which were relevant for the enquiry. He was given several adjournments by the Enquiry Officer in order to enable him to participate in the Enquiry proceedings. He was given ample opportunity to defend his case before

the Enquiry Officer. He was also called upon by the Enquiry Officer to submit the list of the witnesses and the copy of the documents which he desired to place before the Enquiry Officer. He did not submit any list of witnesses nor the copy of documents as directed by the Enquiry Officer. In spite of the notice he did not appear before the Enquiry Officer to make his submissions regarding his defence. The Enquiry Officer had therefore no option but to proceed against him. The workman's request for examining handwriting expert was also allowed by the Enquiry Officer and in this connection he was asked to submit the name of the handwriting expert. The workman did not submit the name of handwriting expert before the enquiry officer for passing suitable orders in respect of the expert.

7. The management further alleges that the Enquiry Officer conducted the enquiry in a just and fair manner and no prejudice was caused to the workman. After considering the entire facts and evidence on record, the Enquiry Officer submitted his report to the Disciplinary authority for needful action. The Enquiry Officer gave notice to the workman for personal hearing but he could not appear before him for the same. The Disciplinary Authority after considering the entire material on record, accepted the report of the Enquiry Officer and passed the order of dismissal against the workman. The Enquiry Officer rightly held the charges proved against the workman on the basis of evidence on record. The report of the Enquiry Officer is in no way perverse. In view of all these facts, the claim of the workman deserves to be quashed. He is not entitled to any relief as claimed by him.

8. The following issues have been framed in this case and my findings thereon are noted hereinafter:—

1. Whether the enquiry is just, proper and legal?
2. Whether the management is entitled to lead evidence before this tribunal?
3. Whether the charges of misconduct are proved on the facts of the case?
4. Whether the punishment awarded is proper and legal?
5. Relief and costs?

9. Issues No. 1 & 2:

It has already been held by this tribunal vide order dated 28-2-95 that the Departmental Enquiry conducted against the workman is just and proper. The workman filed review petition before this court to recall the order dated 28-2-95. This petition was also rejected on 12-10-98. In view of this order, the order passed by this tribunal on 28-2-95 regarding the validity of DE remains unchanged. The workman is therefore not required to lead any evidence to prove the alleged misconduct of the workman. Issues No. 1 & 2 are answered accordingly.

10. Issue No. 3 & 4:

It is an admitted fact that on 26-2-82 and on 8-6-82 the workman was working as teller at Branch Office, Govindpura, Bhopal. On 26-2-82, one Ram Avtar approached the workman at Govindpura Branch of the Bank to withdraw a sum of Rs. 1000 from SF A/C No. 2227 in the name of Mahendra Sinha. Ram Avtar presented a withdrawal slip for the withdrawal of amount duly signed by the Account Holder with pass book. On that day the workman informed the bearer that the signature of account holder on withdrawal slip did not tally with the original one and therefore the payment was not made to him. The workman had torned the top portion of the withdrawal slip giving the impression that the withdrawal slip has been destroyed. Later on the same day, the account holder Shri Mahendra Sinha came to the Branch Manager along with bearer of previous withdrawal slip and withdrew Rs. 1000 by presenting another withdrawal slip. The workman retained the disputed withdrawal slip with him. Subsequently on 8-6-82, the workman made payment of Rs. 1000 to one Ashok on the basis of withdrawal slip dated 26-2-82 which was earlier refused by himself for payment on the said withdrawal slip. On 8-6-82, the payment was made to one Ashok though the related pass book did not accompany the withdrawal slip and on the back, the signatures of 2 persons, besides those of the account holder. All these circumstances

made it clear that the workman was instrumental for committing a fraud in the account which amounts to gross misconduct in terms of bipartite settlement. On 8-6-82, the real account holder Smt. Mahendra Sinha had never withdrawn the money from the Bank, but in his book such withdrawal was entered. He made a complaint to the Branch Manager who took out the disputed withdrawal slip dated 26-2-82 which was signed by Smt. Mahendra Sinha. On this withdrawal slip, no payment was made by the Bank to Shri Mahendra Sinha as there was objection regarding the similarity of his signature. On this objection, he submitted another withdrawal slip on the basis of which the payment of Rs. 1000 was made to him and the previous questioned withdrawal slip was left in the Bank itself by him. On the basis of questioned withdrawal slip, the payment of Rs. 1000 was made to one Ashok by the workman while discharging his duty in the Bank. On 26-2-82, the workman had objected to make payment as this signature of the account holder did not tally with the original one and subsequently on 8-6-82, the payment was made to one Ashok by this very workman. No reasonable explanation has been given by the workman in this respect. This very fact goes to show that his bona fides were not clear and he deliberately made the payment of Rs. 1000 to one Ashok who was not authorised by the real account holder Shri Mahendra Sinha. He could have very well refused to make the payment on the similar objection which was raised on 26-2-82.

11. From the perusal of DE record, it is not evident that the workman made any attempt to prove his defence that he made the payment of Rs. 1000 on 8-4-82 as per order of the Branch Manager. He failed to examine the Branch Manager to prove his defence. In the absence of this fact, it will not be possible to hold that the payment on 8-6-82 was made in accordance with the order of the Branch Manager. On the contrary it is established that the workman himself had made the payment on some spurious reasons which certainly amounts to misconduct.

12. The report of the Enquiry Officer clearly goes to show that on 1-6-83, Rs. 775 were withdrawn from SF A/C No. 10387 in the name of Smt. Leela Singh though the signatures on the withdrawal slip differed significantly. The pass book also did not accompany the withdrawal slip. At that time the workman was working in the Bank's Branch Office, Govindpura, Bhopal and he had made this payment to some other person and not to the real Account holder. Smt. Leela Singh had made a complaint to the Branch Manager regarding this withdrawal of Rs. 775 from her Account and the Branch Manager took out the withdrawal slip and put before the Account holder to identify her signature and writing. Smt. Leela Singh clearly stated that the withdrawal slip did not bear her signature and writing too. The Enquiry Officer has therefore held that the workman made deliberate payment in Account of Smt. Leela Singh who had never submitted any withdrawal slip in the Bank. Her husband Shri G. P. Singh also did not withdraw this amount from the Bank on the relevant day. These facts clearly go to show that the workman himself made the payment of the said amount to other person who was not the real account holder. This act also amounts to serious misconduct on the part of the workman.

13. The Enquiry Officer has considered the entire material on record in a reasonable and proper manner and thereafter came to the conclusion that the charges were proved against the workman. The handwriting expert Shri Banmali Dwevedi has also testified that Smt. Leela Singh had never signed the withdrawal slip. The handwriting expert gave his clear opinion vide report Ex. M-16 that the disputed withdrawal slip bore the writing of workman Prakash Chandani and not of Smt. Leela Singh. In the same manner the disputed slip of 26-12-82 also bore the writing of the workman regarding the entry of payment of Rs. 1000 to one Ashok. The enquiry officer has rightly accepted the version of handwriting expert and came to the just conclusion in this respect.

14. The report of Enquiry Officer does not appear to be perverse. The Enquiry Officer has given adequate reasons in arriving at the conclusion that the charges were proved against the workman on the evidence on record. The Disciplinary Authority accepted this report and passed the dismissal order against the workman. This court cannot sit as a court of appeal over the order of Disciplinary authority. This court also cannot reappreciate the evidence adduced before Enquiry Officer. The report of the Enquiry Officer is perfectly legal. It is therefore held that the charges of misconduct are proved on the facts and circumstances of the case. Issue No. 3 is answered accordingly.

15. The punishment of dismissal awarded by the workman in the circumstances of the case cannot be held to be disproportionate. Such workman cannot be retained on duty to perform the duty of Assistant in any Bank. The punishment is therefore held to be just and proper. Issue No. 4 is answered accordingly.

16. Issue No. 3—On the reasons stated above, it is held that the workman is not entitled to any relief as claimed by him. He is not entitled to reinstatement with back wages. The order of dismissal is just and proper. The reference is accordingly answered in favour of the management and against the workman.

17. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2393—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधकों के संबंध निर्धारकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकांश/अल्प न्यायालय तत्त्वों के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-01 को प्राप्त हुआ था।

[न. नं-12011/179/2000-आईआर (बो-II)]

सी संवर्धन, अंतराक्षि

New Delhi, the 21st August, 2001

S.O. 2393.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 21-8-2001.

[No. L-12011/179/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Presiding Officer: Rudresh Kumar.

ADJUDICATION

I.D. No. 172/2000

R. F. No. L-12011/179/2000-IR(B-II)

Dated 18-10-2000

BETWEEN

The Asstt. General Secretary,
Central Bank of India Staff Association,
C/o B.P. Saxena
125/W-2, B-Block, B-har
Kanpur-208001 (In the matter of Mohan Jaitly)

AND

The Regional Manager,
Central Bank of India,
Regional Office, 125, Civil Lines
Etawah.

AWARD

By reference No. L-12011/179/2000-IR(B-II) dated 18-10-2000 the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the I.D. Act, 1947 (14 of 1947)

made over this industrial dispute between the Asstt. General Secretary, Central Bank of India Staff Association, Kanpur espousing cause of Mohan Jaitly and Regional Manager, Central Bank of India, Etawah for adjudication. The reference reads as under:

"Whether the action of Management of Central Bank of India in imposing penalty vide order No. RO/PRS/DAD/98-99/613 dated 28-3-1999 of reduction of two stages in time scale of pay of Shri Mohan Jaitly, clerk of Etawah Branch is justified or not? If not, what relief the workman is entitled to?"

2. Admittedly, the workman, Mohan Jaitly working as Clerk employed at Etawah branch of the Central Bank of India was charge sheeted by letter No. RO/PRS/DAD/94-95/130/249 dated 7-5-1994 as follow.

"While working on Current Deposit seat he had posted a credit transfer voucher of Rs. 24000 on 25-1-1991 in C/D ledger account of M/s. Rajpoot Trading Co. at B/O Etawah despite the fact that said credit entry of Rs. 24000 was already stand posted in the account at that time and ledger folio No. 607 of said account was also noted on the related credit transfer voucher. This act on his part has contributed to twice posting of said credit transfer voucher of Rs. 24000 in C/D ledger account of M/s. Rajpoot Trading Co. on 25-1-91. The party had withdrawn the amount against excess balance created in the account due to twice posting of credit transfer voucher of Rs. 24000. It has created an unauthorized overdraft in a/c and bank is likely to suffer financial loss.

Thus, Mr. Mohan Jaitly had committed act of gross negligence which had jeopardized the Bank interest and put the Bank into financial loss. He is charged under gross misconduct of the above act under para 19.5(j) of the Bipartite Settlement dated 19-10-66."

3. The omissions and commissions involving the workman is reflected in recital of the above charge. Prior to issuance of the charge sheet he was issued two memos No. RO/PRS/DAD/93-94/407 dated 11-6-1993 and RP/PRS/DAD/93-94/30/1354 dated 2-11-93 calling upon to file his reply about wrongful entries in the ledger in relation to account of M/s. Rajpoot Trading Co. which resulted into over drawal causing loss to the bank. The workman preferred, not to file, any response to said show cause memos, forcing issuance of charge sheet as above.

4. Initially Mr. J. B. Jain was appointed Enquiry Officer to conduct the domestic enquiry. However, he was replaced later by Mr. V. K. Sarin. During the pendency of the enquiry, the workman, jointly with Amar Singh, Vinood Kumar and D.C. Dixit, also involved in the said commissions, filed an undertaking before the Disciplinary Authority on 12-1-1996, the content of which is reproduced hereunder:

"In reference to above, we undertake that amount outstanding in above accounts shall be made good by us by equal share, if the bank do not succeed in recovering the money from the party through suit pending in the court at Etawah."

5. Acting on the undertaking of the workman Mr. C.P. Pathak the Disciplinary Authority vide his final order (RO/PRS/DAD/95-96/1761 dated 29-1-1996) closed the enquiry and awarded following punishment:

In terms of para 19.6(c) of the Bipartite Settlement dated 29-10-1966 (amended upto date) "to pay 1/4th share of the outstanding balance + interest + other expenses on date of over draft A/c of M/s. Rajpoot Trading Co., Etawah branch by depositing in Fixed Deposit, under banks lien, till the court decision/recovery of the banks money from the above A/c holder."

6. Aggrieved by this final order, the workman preferred appeal before the Appellate Authority who disposed of the appeal on 4th March, 1997. The Appellate Authority, Mr. H.P. Minocha, held infirmities in the procedure adopted in conducting departmental enquiry against the workman which was against the principles of natural justice. The order dated 4-3-1997 detailed nature of infirmities. The order further held that the punishment awarded by the disciplinary autho-

rity did not refer to specific amount. The Appellate Authority, to provide justice to the appellant (Mohan Jaitly), set aside the final order passed by the Disciplinary Authority on 29-1-1996 and remanded back the case to the Disciplinary Authority with instruction that the departmental enquiry be held 'denovo' against the appellant and pass final order after receiving findings of the Enquiry Officer and observing mandatory norms.

7. In compliance of the direction of the Appellate Authority, the Disciplinary Authority ordered 'denovo' enquiry and appointed Mr. H. K. Verma, Branch Manager, Anand Mandi Branch, Lhawah as Enquiry Officer. Enquiry was attended by the workman alongwith his defence representative. The enquiry officer concluded his enquiry on 19-7-98 and held the charge proved.

8. The Disciplinary Authority Mr. J. P. Misra on the basis of the enquiry report issued memo No. RO/PRS/DAD/98-99/202 dated 19-8-98 to the workman proposing punishment in shape of reduction of two stages in time scale of pay and desired him to make submissions against the proposed punishment. Opportunity of personal hearing was also given by the disciplinary authority to the workman. After personal hearing on 10-10-98, the Regional Manager, Mr. J. P. Misra, acting as the Disciplinary Authority passed final order by Memo No. RO/PRS/DAD/98-99/613 dated 20-3-99. The order reads as under :

"I J. P. Misra in the capacity of Disciplinary Authority vide order No. RO/PRS/DAD/98-99/612 dated 20-3-1999 awarded the punishment of "Reduction by two stages in time scale of pay" as enumerated in para 19.6 (c) of Bipartite settlement dated 10-10-66 (amended upto date) in disciplinary proceedings taken against Sri Mohan Jaitly, Clerk Etawah Branch."

Shri Mohan Jaitly, Clsrk is hereby advised that above punishment is inflicted upon him with immediate effect."

9. The workman filed appeal against the said order dated 30-3-99 before the Appellate Authority who by order No. ZO/PRS/DAD/99 2000/499 dated 8-10-1999 rejected the appeal. The Appellate Authority Mr. S. K. Abbi passed detailed order and justified action of the Disciplinary Authority. Aggrieved by the said order, the workman raised this industrial dispute.

10. Factual details are admitted and is not needed to be reproduced. The workman has not denied to be on current counter on the relevant date when double entries were made in the ledger in the account of M/s. Rajpoot Trading Co. The factum of overdrawal by the said company, is, also not disputed. Efforts on the part of the management to recover the excess amount from M/s. Rajpoot Trading Co. was undertaken and civil suit was filed in this regard, is, also not disputed. In order to resolve present dispute, it is to be assessed as whether conduct of the workman, in shape of omission and commission which ultimately resulted into double posting of Rs. 24000 in account of M/s. Rajpoot Trading Co. amounted to grave misconduct punishable under the relevant provisions of the Bipartite Settlement Main grounds taken by the workman are as follows:

- (i) that a 'denovo' enquiry is not contemplated under the Bipartite Settlement, as such this enquiry in light of the direction of the Appellate Authority is not legally sustainable;
- (ii) that proper opportunity to inspect the files was not given to the workman;
- (iii) that part the enquiry on 20-3-1999 was done in absence of the workman, rendering the proceeding illegal;
- (iv) that the Enquiry Officer did not allow the workman to put relevant questions to the management witness;
- (v) the management did not provide documents and informations relevant to the enquiry;
- (vi) the enquiry was concluded without giving opportunity to the workman; and
- (vii) that the finding of the Enquiry Officer is perverse

10. The denovo enquiry is not prohibited by the Bipartite Settlement. The Disciplinary Authority followed instructions of the Appellate Authority and ordered denovo enquiry. The order of the Appellate Authority was not challenged by the workman before any forum and this order attained finality. Apart, the workman participated in denovo enquiry alongwith his defence representative and cross-examined the witness. The plea as to illegality of the denovo enquiry appears to have been taken before this Tribunal for the first time. The denovo enquiry did not prejudice cause of the workman. No material has been placed to show that the denovo enquiry was illegal. This plea seems to be misconceived.

11. Plea that proper opportunity was not given to the workman to inspect files, seems to an after thought. He was not supposed to have owned responsibility of excess payment and agreed to share loss, had he not inspected the relevant documents during the period prior to enquiry and thereafter. Nothing is shown, what prejudices were caused to the workman by rejecting his plea to inspect files. Whether the file claimed to be inspected was relevant is also not disclosed. Inspection of file is called upon only when relevancy with the subject matter is shown. In the present case, the workman has tacitly admitted his role in double posting. Under the said circumstances, this plea is misconceived and unacceptable.

11. The plea that part on the enquiry on 20-3-99 was conducted in his absence did not cause any prejudice to him. If the workman, with a view to delay or obstruct the passage of enquiry chooses to be absent, the enquiry was not required to be stalled. To gain on this plea, it is incumbent on the workman to show that he was really and actually suffered. Nothing is on record to justify this submission. This plea is rejected.

12. The A/R of the workman pointed towards some questions which were not replied by the workman or were not allowed to be put. If one goes by these questions, it is clear that these questions were not very relevant to the misconduct of the workman. These questions, of course, related to the subject matter, but related to action against the officials or culpabilities of the management. The workman was entitled to cross examine and not impeach the witness. As observed earlier, the involvement in double posting is not denied. There may have been negligence on the part of the other officials too, but this fact could not absolve the workman of his accountabilities. The tenor of questions indicate that the workman desired actions against others. All the documents which were relevant to the workman's misconduct, were made available to him. There appears no denial of opportunity to him at any stage. The Enquiry Officer was not prejudiced. The workman had already contested the case upto appellate stage in which denovo enquiry was ordered. No prejudice has occasioned due to denial of permission to put questions or those questions not replied by the witness. In substance, the whole case is based on documents and discharge of duties upto stage of double posting. These questions did not relate to relevant facts, hence were rightly denied.

13. It is evident from perusal of the enquiry file that the Enquiry Officer deliberated in detail on the facts and circumstances leading to proof of accusation. The findings are not perverse in any manner.

14. The Disciplinary Authority rightly agreed with the findings and passed penalty order. Appellate Authority also disposed of appeal with reasoned order.

15. Accordingly, the domestic enquiry was fair and proper and the findings did not suffer with vice of perversity. The action of the management is held to be justified in punishing the workman.

16. Reference is answered against the workman. He is not entitled to any relief.

LUCKNOW

14-8-2001.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2394—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय जैसे किसी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-01 को प्राप्त हुआ था।

[सं. एल-12012/19/95-आईआर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 21st August, 2001

S.O. 2394.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 21-08-2001.

[No. L-12012/19/95-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-1 LABOUR COURT "SHRAM SADAN"

III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YTSHWANTHIPUR, BANGALORE

Dated: 10th August, 2001

PRESENT:

Hon'ble Shri V. N. Kulkarni, B.Com., LL.B.,
Presiding Officer

CGIT-CUM-LABOUR COURT

BANGALORE

C.R. No. 49/97

I PARTY

Ramesh Marathe,
Clerk,
Syndicate Bank,
Silvel
Karnool District,
Andhra Pradesh
(Advocate—Shri Narasimha Swamy)

II PARTY

General Manager (P)
Syndicate Bank H.O.,
Manipal 576 119
(Advocate—Shri Pradeep Sawkar)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/19/95/IR (B-II) dated 19th June, 1995 for adjudication on the following schedule:

SCHEDULE

"Whether the Action of the Management of Syndicate Bank, Manipal in Imposing the Following Penalties on Sri Ramesh Marathe, Clerk vide their Order Dated 22-11-1993 is Legal and Justified?"

(I) Stoppage of next one increment with cumulative effect for the alleged misconduct of wilful insubordination and disobedience of lawful and reasonable orders of superiors;

(II) Stoppage of next one increment for 6 months for alleged misconduct of indecent and disorderly behaviour on the premises of the bank, and

(III) Stoppage of next one increment for 6 months for the alleged misconduct of doing acts prejudicial to the interest of the bank. If not, what relief is the said workman entitled to?"

2. First Party was working with the Second Party. On account of misconduct enquiry was initiated against the first party. On the basis of the enquiry report minor punishment was imposed and therefore, Industrial dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows:

5. The first party joined the Bank in the year 1984 and was working honestly and sincerely without any complaint. He was incharge of the cash department. There was heavy rush in the bank on account of the fact that second October happened to be a holiday for Gandhi Jayanthi. In addition Dasara festival was also in the first week of October, 1992. Work was very heavy in the branch.

6. It is the further case of the first party that at the end of the working hours of the bank the Sub Manager wanted the first party to do the work in the Clearing department on the very same day. But on account of busy schedule he could not carry out the said work that too at the fog end of the day to clear the cheques. However the Sub Manager got angry with the first party and stated that he would take action against him and letter was issued to him for the misconduct. Again letter dated 3/7-10-1992 was given to the first party for various actions of misconduct. He submitted explanation but enquiry was conducted. The enquiry is not correct and proper. He has not committed any misconduct. Charges are not proved. First party for these reasons and for some other reasons has prayed to pass award in his favour.

7. The case of the Second party in brief is as follows:

8. The main contention of the management is on that 1-10-1992, the first party was working as a Cashier in the Savings Bank Section of the Cash Counter. At about 4.30 P.M. on that day, the first party completed his work of the said section and on account of the fact that there was heavy work connected with the clearing section due to successive holidays and he was advised by the Sub Manager to assist Smt. P. Surekha, Clerk in Clearing Section. But the first party refused to obey the oral orders and written order was given. The first party refused to acknowledge the receipt of the office order in the delivery book, though he received it under protest. The above act is a misconduct in the meaning of Clause 19.5(c) wilful insubordination and disobedience to lawful and reasonable orders of superiors. Clause 19.5(c) indecent and disorderly behaviour on the present of the Bank. 19.5(j) committing acts prejudicial to the interest of the Bank under the Bipartite settlement.

9. Enquiry was initiated. Regarding enquiry it is said that the full opportunity was given to the first party and enquiry officer has conducted the enquiry properly but the first party himself did not participate in the proceedings and walked out of the enquiry on 2-3-1993. There were no ground to change the Enquiry Officer. All the allegations made by the first party are not correct. Charges were proved and for the misconduct action taken by the management is correct. The Second party has prayed to reject the reference.

10. It is seen from the records that this court by its order dated 19th April, 2001 passed an order holding that the Domestic Enquiry is fair and valid.

11. In view of the fact that the enquiry is held as fair and proper now the first party cannot say that the enquiry is not proper and no chance was given to the first party. The only contention of the first party that there was harassment because the first party was a member of the union. First party was examined himself and has said that there was harassment to him.

12. I have carefully perused the enquiry proceedings and all the relevant documents.

13. According to the management when the first party finished his regular work he was asked by the superior to work in the Clearing Section but he refused to do work and

when the memo was given to him he received the letter under protest and it is clear from the records that he refused to acknowledge receipt. In my opinion this is definitely insubordination and not working to the orders of the superior.

14. The first party is working in a responsible Nationalised Bank and is expected to maintain discipline and work properly.

15. It was argued by the learned counsel for the first party that so far as Charge 1 and Charge 2 is concerned the period has expired and he is not insisting on that. His only contention was that the punishment of stoppage of next one increment with cumulative effect is too harsh and this is not proportionate the misconduct alleged by the management.

16. In my opinion there is no merit in this argument because misconduct is proved and there is disobedience on the part of the first party and secondly charges are proved and in the absence of any material that there was harassment and victimisation to the first party, on behalf of the management I am of the opinion that the punishment imposed is correct.

17. Regarding harassment it is only said by the first party that he was harassed. There is no material produced by the first party to say that really he was harassed.

18. Taking all this into consideration and in view of the fact that the DE is held as Fair and Proper there is nothing to invoke the provisions of Section 11A of the ID Act that too in a situation where minor punishment is imposed on the first party. There is no merit in this reference. Accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 10th August 2001.)

HON'BLE V. N. KULKARNI, Presiding Officer
10-8-2001

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2395.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉर्पोरेशन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर के पंचाट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 21-8-2001 को प्राप्त हुआ था।

[सं. एन-12012/395/97-आई आर (बी-II)]

सी. गंगाधरन, अवसर सचिव

New Delhi, the 21st August, 2001

S.O. 2395.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Corporation Bank and their workman, which was received by the Central Government on 21-08-2001.

[No. L-12012/395/97-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

“SHRAM SADAN”,

III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE

Dated : 14th August, 2001

PRESENT :

HON'BLE SHRI V. N. KULKARNI,
B.COM, LLL, PRESIDING OFFICER
CGIT-CUM-LABOUR COURT,
BANGALORE

C. R. No. 90/98

I PARTY

The Joint Secretary,
Corporation Bank Employees,
Union,
H-5, 7th Floor,
Manish Towers,
J. C. Road,
Bangalore-560001,
(Advocate—Shri M. R. Shailendra).

II PARTY

The Chief Manager (I&D),
Corporation Bank,
Post Box No. 88,
Mangalore,
(Advocate—Shri Pradeep Sawkar).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/395/97/IR(B-II) dated 20th October 1998 for adjudication on the following schedule :—

SCHEDULE

“Whether the action of the Management of Corporation Bank in imposing the punishment of stoppage of one increment with cumulative effect upon Shri B. S. Surendra, clerk is commensurate to the act of misconduct allegedly committed by the workman ? If not, what relief the said workman is entitled to ?”

1. The Bank Secretary, Corporation Bank Employees union for the workman has raised dispute on the ground that the management has imposed the punishment of stoppage of one increment with cumulative effect therefore, Industrial Dispute is raised.

2. Parties appeared and filed Claim Statement and Written Statement respectively.

3. The case of the first party in brief is as follows :

4. It is the further case of the union that when the workman was working at Bangalore Srinagar Branch of the Bank between the period 28th October, 1992 and 12th December, 1993, certain omissions and Commissions have been alleged and charge sheet was issued. The workman had borrowed a sum of Rs. 6000 from Shri R. Ramesh, Clerk of Doddaballapur Branch and three cheques were issued on his SB Account maintained at Bangalore Srinagar Branch and Shri Ramesh discounted two of the aforesaid cheques.

5. It is the further case of the workman that he has not committed any misconduct and the charges are not correct infact the aforesaid charges do not constitute misconduct. The workman has relied the judgement pronounced by Kerala High Court and has contented the matter affecting private right do not constitute misconduct.

6. Regarding enquiry it is said by the workman that the management has not produced any witness oral or documentary to prove that the workman have borrowed a sum of Rs. 6000 from Shri Ramesh. The enquiry officer has failed to take cognisance of provisions of the Negotiable Instruments Act. The allegation that the workman had not maintained the sufficient balance in his SB Account is not correct. The charge sheet itself says that the alleged discounted cheques have not been received by Srinagar Bank and therefore, the workman is not liable for any misconduct. The finding of the enquiry officer is without any evidence. The workman for these reasons and for some other reasons has prayed to pass award in his favour.

7. The case of second party in brief is as follows :

8. It is said that the reference is bad and not properly worded as stated in para 1 of

the Written Statement. The provisions of Section 11A of the ID Act invoke in cases of punishments of discharge or dismissal and not in other cases. Charge sheet was correctly issued and misconduct was proved. Details of charge sheet are stated in para 2 of the Written Statement.

9. Regarding enquiry it is said that the same is correct and all the allegations made by the workman in this behalf are not correct. It is also said full opportunity was given to the Workman to defend his case. The workman has borrowed Rs. 6000 and issued cheques and cheques aggregating to Rs. 4000 has been discounted.

10. It is the further case of the management that the workman and Mr. Ramesh being the bank employees are aware of the bank procedures and insupport of this Mr. Ramesh in connivance made false entry in the courier register. There is no merit in the dispute raised by the first party workman. The action of the management is correct. The management for these reasons has prayed to reject the reference.

11. It is seen from the records that MW1 is examined on behalf of the management.

12. The evidence of MW1 is that he conducted enquiry against the first party workman. He has given detailed evidence about the enquiry.

13. At this stage it is to be noted that the first party conceded the fairness of the enquiry on 14th June, 2001 and requested that the matter may be heard on merits.

14. Accordingly I have heard both sides in details and I have perused all the enquiry proceedings and read the decisions cited by the parties. It is true that in the instant case the first party workman has conceded the domestic enquiry fair and proper.

15. It was vehemently argued by the learned counsel for the first party workman that the transaction was between the workman and one Mr. Ramesh and this has nothing to do with the bank and the action of the management is not correct. In support of this argument he relied a decision of Kerala High Court which is marked in the enquiry as Ex. D1. The citation is O.P. No. 5798 of 1986 which was decided on 14-12-1990. I have read the above decision carefully. It

is held in the above decision that matters affecting private rights do not constitute any misconduct.

16. Against this it was argued by the learned counsel for the second party that the workman has committed misconduct and there is temporary misuse of funds and therefore, there is no merit in this dispute. In support of this he relied following decisions :—

(I) AIR 1997 SC 1393

(II) AIR 1997 SC 1398

(III) 1995 (6) SCC 237

(IV) 1995 (6) SCC 240

(V) AIR 1996 SC 2412

(VI) AIR 1996 SC 2419.

17. I have read the above decisions very carefully. Facts of AIR 1997 SC 1393 are quite different from the facts of the present case. It was in respect of enquiry and non supply of certain documents.

18. In AIR 1997 SC page 1398 facts are quite different from the facts of the case on hand.

19. In 1995 (6) SCC 237 there was a strike and the facts of the present case are quite different from the facts of the above decision

20. In AIR 1996 SC 2412 again the facts of the present case are quite different from the facts of the above decision.

21. In AIR 1997 SC 1393 (Para 8) was insisted to be seen and was argued that the acts of the workman constituted misconduct and accordingly proceedings were initiated.

22. In the above case there was misconduct on the part of the Sub Inspector who was transferred and posted at another place and remained continuously absent on the ground of ill health and did not appear before the medical board.

23. In the instant case it is an admitted fact that the first party workman has conceded the Domestic Enquiry. The first party workman in other words has not challenged the enquiry. But the contention of the workman is that the chargesheet itself would go to show that it was a private affair between the workman and one Mr. Ramesh there was

no misconduct and therefore, the management is not correct in imposing the punishment in question.

24. According to the chargesheet the alleged discounted cheque have not been received by Srinagar Branch and therefore it can be said here that the finding of the Enquiry Officer is not based on evidence and the report of the enquiry officer is perverse. In fact there is no temporary misuse of bank funds in this case.

25. It was further argued by the learned counsel for the management that the punishment is minor and this court cannot invoke the provisions of Section 11A of the ID Act.

26. In the instant case the alleged transaction of workman and another employee by name Shri Ramesh is a private transaction and in my opinion there is no misconduct at all and therefore, there is no merit in the arguments advanced by the learned counsel for the management.

27. I already said that the alleged transaction is between the workman and another employee by name Shri Ramesh and the transaction being private not affecting the bank but the action of the management in imposing the punishment is not correct.

28. I have considered all the submissions made by the parties carefully and I proceed to pass the following order :

ORDER

The reference is allowed and imposing the punishment of stoppage of one increment with cumulative effect is set aside.

(Dictated to PA transcribed by her corrected and signed by me on 14th August 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 21 अगस्त, 2001

का.प्र. 2396: औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मैंगलोर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-01 को प्राप्त हुआ था।

[सं. एन-17012/43/97-आईआर (बी-II)]

सी. गंगाधरण, सचिव

New Delhi, the 21st August, 2001

S.O. 2396—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 21-8-2001.

[No. L-17012/43/97-IR(B-II)]

C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
“SHRAM SADAN”
III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE

Dated 16th August, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., L.I.B.,
Presiding Officer, (GIT-cum-Labour Court,
Bangalore.

C.R. No. 63/98

I PARTY :

Shri K. M. Gurushivakumar,
S/o Shri K. Malliah
No. 3887,
Lakshminagar,
Kadur,
Chickmagalur-577 548.
(Advocate : V S Naik)

II PARTY :

The Divisional Manager,
LIC of India,
Divisional Office,
Jeevan Krishna,
Udupi-576 101.
(Advocate : Shri T. V. Anantha Murthy).

AWARD

1 The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-17012/43/97/IR(B-II) dated 29th June, 1998 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of Life Insurance Corporation of India in refusing employment to Shri Gurushivakumar w.e.f. 1-3-1997 is legal and justified? If not, to what relief the said workman is entitled?”

2 The first party was working with the second party. His services were terminated and therefore, this industrial dispute is raised,

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as under :—

5. The first party belongs to Scheduled Caste Community. He had registered his name in the Employment Exchange at Chickmagalur. He received an interview notice on 29-3-1995 from the management and his name was sponsored by the Employment Exchange in the post of Temporary Assistant in the Branch. He appeared for the interview on 17-9-1995 and he was appointed by an order dated 14-3-1996 and he joined on 18-3-1996 and he was continuously working with the second party. He was also enjoying the leave and other service benefits. He was being paid a basic salary of Rs 1950. He was also entitled to draw other allowances.

6. It is the further case of the first party that on 1-3-1997 first party workman was refused employment. No letter or memo of termination was given. The management issued a service certificate on 1-3-97 giving particulars of employment and also the wages drawn by him. The first party was working against the existing vacancy and he worked continuously till the employment was refused.

7. He worked for more than 240 days. The action of the management is not correct. The Life Insurance Corporation of India is governed by the provisions of Chapters V A and B of the Act. The management has not complied with the mandatory provisions of the Act and therefore, the action is not correct. The management illegally refused employment. In view of age factor it is very difficult for the first party workman to get an alternative employment. The first party workman for these reasons has prayed to pass award in his favour.

8. The case of the Second Party in brief is as follows :

9. It is mainly contented that this Tribunal has no Jurisdiction because the Life Insurance Corporation Act, 1956 is a self contained Act, and in that it has been provided for provisions to make Regulations and Rules. But provisions of Section 48 are stated in the Counter. The provisions of Section 49 are also stated in the Counter.

10. It is the further case of the management that consequence of the amendment to Section 48 of the 1956 Act inserting Sub sections (2)(cc), (2A), (2B) and (2C) the regulation framed by the Corporation have now become deemed Rules under Section 48 of the said Act.

11. It is further contented by the management that the amendment excludes the application of Industrial Dispute Act. The provisions of Section (2C) are also stated in the counter.

12. It is the further case of the management that the law laid down by the Supreme Court is binding on all Courts and Tribunals in India and therefore the dispute is not maintainable because the employees of the corporation shall not be entitled to protection, to which they were entitled before the coming into force of the amendment aforesaid,

13. It is the further case of the management that the first party was appointed temporarily as temporary assistant for the period from 18-3-1996 to 28-2-1997 and under the LIC of India (Staff) Regulations, 1960. Regulation 8 deals with temporary staff and it reads as under :

- (i) "Not with standing anything contained in these Regulations, a Managing Director, Executive Director (Personnel), a Zonal Manager or a Divisional Manager may employ staff in Classes III and IV on a temporary basis subject to such general or special directions as may be issued by the Chairman from time to time".
- (ii) "No person appointed under Sub-regulation (1) shall only by reason of such appointment be entitled to absorption in the service of the Corporation or claim preference for recruitment to any post".

14. It is the further case of the management that the rules for recruitment of temporary staff are framed vide LIC of India (Employment of Temporary Staff) Instructions, 1993 and any temporary appointment made under Regulation 8 of Staff Regulations is governed by the said instructions and these instructions have been approved by the Supreme Court.

15. The management for these reasons has prayed to reject the reference.

16. It is seen from the records that on behalf of workman he got examined himself as WW1.

17. On behalf of the management MW1, J. D. Rao was examined and documents were marked.

18. According to the evidence of MW1 the first party was appointed as a Temporary Assistant w.e.f. 18-3-1996 and the conditions of appointment are mentioned in Ex. M1 and Ex. M2 and therefore, the first party is not entitled for any benefits. His further evidence is that the reference be rejected.

19. He further says that the appointment of temporary assistant was necessitated as the panel of recruitment have not selected the regular employees.

20. MW1 in his cross examination has stated that after interview the first party reported duty in Kaddur Branch on 18-3-96. He was doing the duty of Clerical Job. He is unable to tell the name of a person who replaced the first party. He also says in his cross examination that no letter was issued to the first party either on 28-2-97 or subsequently. He also says that there was no enquiry against the first party and no notice was issued to the first party.

21. Against this the evidence of WW1 is that he was appointed on 14-3-1996 and he joined duty on 18-3-1996. He also said that no regular employee reported for duty. He says that at the time of termination notice and compensation was given to him. He has prayed for reinstatement.

22. It is clear from the records that first party has worked continuously for more than 240 days and this

fact is not disputed by the management. It was vehemently argued by the learned counsel for the management that the first party was appointed on temporary basis and in view of the decision of the Hon'ble Supreme Court AIR 1994 Page 1343, the provisions of ID Act are not applicable to the case of the first party and therefore, this reference has no merit.

23. I have read the above decision very carefully and I have perused the documents marked as Ex. M1 to Ex. M4. I have read the provisions of the Life Insurance Corporation of India Act, 1956 carefully and Staff Regulation Rules, 1960 and other documents relied by the parties.

24. According to the appointment order, the appointment of first party was on temporary basis and it was governed by the provisions of the Life Insurance Corporation of India (Employment of Temporary Staff Instructions, 1993).

25. Further according to the appointment conditions it is also clear that during the period of temporary employment with the corporation, none of the provisions of the Life Insurance Corporation of India (Staff) Regulations, 1960 barring regulation 8, or of the rules issued by the Central Government under Section 48 of the Life Insurance Corporation of India Act, 1956 shall apply.

26. The learned counsel for the first party vehemently argued that the decision of the Hon'ble Supreme Court referred by the management is not applicable to the case of first party because as per the conditions of the appointment order the very provisions of Section 48 of the Life Insurance Corporation Act shall not apply to the first party and therefore, the management cannot take the benefit of the law laid down by the Hon'ble Supreme Court in AIR 1994 page 1343.

27. I have read the above decision of the Hon'ble Supreme Court very carefully. It is clear that by an amendment to Section 48, the provisions of Industrial Dispute Act are not applicable in case of probationers who are terminated, and regulations framed under Section 48(2C) have overriding effect over the provisions of Industrial Dispute Act.

28. In the instant case the appointment is temporary and according to the condition of the appointment order the very provisions of Section 48 of the Life Insurance Corporation of India Act, 1956 shall not apply to the first party.

29. It was further argued by the learned counsel for the first party that the provisions of Section 48 in particular amended 2C does not apply to the temporary appointments and if only the amended provision is made applicable then the management can take the benefit of law laid down by the Hon'ble Supreme Court in the decision relied by the management. It was further argued that in the instant case the very application of Section 48 has been excluded in the appointment order and the provisions of Section 48 of the Life Insurance Corporation of India shall not apply in this case except the Regulation 8. There is merit in this argument.

30. I shall deal Regulation 8 in the later part of this order. For the present it can be said that amended provisions of Section 2(C) do not apply in case of

temporary appointment as the appointment order has excluded the application of Section 48 and therefore, the management cannot take principles held in the above decision of the Supreme Court.

31. So far as Regulation 8 is concerned, it was vehemently argued by the learned counsel for the first party that this provision also will not help the management because the ID Act is applicable in the case of first party and refusal of employment as alleged by the first party amounts to retrenchment.

32. It is clear from the records that the first party worked continuously for more than 240 days and this is not denied by the management. Further the name of the first party was sponsored by the Employment Exchange and in view of this the management cannot terminate the services of the first party without taking the mandatory provisions of the ID Act and such being the case the termination is bad.

33. Regarding this aspect and the exclusion of amended provisions of Section 2(C) of Section 48 of LIC of India Act is concerned, the learned counsel for the management submitted that he has no further comments on this aspect.

34. So far as Regulation 8 is concerned, the management has not convinced anything and the termination is bad. I have already said the provisions of ID Act are applicable to the first party and refusal of employment amounts to retrenchment.

35. Taking all this into consideration, I am of the opinion that there is merit in this dispute and accordingly I proceed to pass the following Award :

AWARD

Reference is allowed and the action of the management in dismissing the first party workman from service is not justified as prayed by the first party, and further the management is directed to reinstate the first party with continuity of service from the date on which he was terminated. Accordingly Award is passed as prayed by the first party.

(Dictated to PA transcribed by her corrected and signed by me on 16th August, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.प्र. 2397.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं. एल-40012/2/95-आईआर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2397.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the

Central Government Industrial Tribunal-cum-Labour Court, Bangalore, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 20-8-2001.

[No. L-40012/2/95-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
"SHRAM SADAN"

II MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE

Dated 2nd August, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB.,
Presiding Officer, CGI F-Cum-Labour Court,
Bangalore.

C.R. No. 114/97

I PARTY :

Shri A. Daniel,
C/o A. David, DTO,
Dharmapuri-636-705,
Tamil Nadu.
Shri A. Dharman,
C/o T. Mahingappan,
D. No. 177,
TNHB Vennapatti Quarters,
Dharmapuri-636 705,
Tamil Nadu.
(Advocate : Shri Satya Narayan).

II PARTY :

The Divisional Engineer,
Telecom Co-axial Cable Project,
No. 38, 28th Cross, Banashankari II Stage,
Bangalore-560 078.
(Advocate : Shri Krishna Kumar Megharaj).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-40012/2/95-IR(DU) dated 26th February, 1996 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the Department of Telecommunication in terminating the services of the workmen S/Shri A. Dharman and A. Daniel w.e.f. 26-3-1988 is justified? If not, to what relief the workmen are entitled to?"

2. First Party workman was working in the management and his services were terminated so industrial dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows:

5. The first party was recruited by the AE Co-Axial, Mangalore as per the procedures in vogue. He was posted to work as casual mazdoor in Kasaragod, Mangalore section under the co-axial cable project division from August, 1986 and was discharging duties of a permanent nature without any blemish. He continuously worked as defined under section 25B of the Industrial Dispute Act and thereafter he was stopped from March, 1988 from the working party as per the instructions from DOT vide his letter No. 270-6/84-2/STN dated 30-3-1985. The second party management has issued an order, retrenching the first party workman from the service vide order bearing No. A. 39/6 dated 21-5-1991. The action of the management with following the mandatory provisions is not correct as stated in para 4 of the Claim Statement.

6. It is the further case of the workman that it is a clear case of unfair labour practice. Therefore, he prayed to pass award in his favour.

7. The case of the Second party in brief is as under:

8. The dispute is not maintainable. All the allegations are not correct. The second party has not issued any letter dated 26-3-88 to the first party that the first party terminating the services. The first party himself has voluntarily obtained from the work without prior sanction or prior intimation to the department. From 1988 without any reason the first party workman remained absent and did not attend the duties. The management has stated in detail the criteria for absorbing casual labourers in the department.

9. It is the further case of the management that those who have been employed before 31-3-1985 and currently working on the date of issue of orders i.e. 18-11-1988 and those who have been taken to work between 31-3-85 to 22-6-88 and who are in continuous service on the date of issue of order i.e. 17-12-93 and who are not absent for the last more than 365 days continuing from the date of issue of this order. The first party has not fulfilled required conditions mentioned in the circular issued by the Department, hence the first party is not entitled for absorption into work. The first party has not fulfilled any of the criteria so question of his absorption did not arise at all.

10. It is the further case of the management that instructions were issued as per letter No. 270/6/84 STN dated 30-3-85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/districts. It was instructed in projects and electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. According to the instructions subsequently issued vide office letter No. 270-5/84 STN dated 22-6-88 fresh recruitment of casual labourers even for specific period in projects and electrification circles also should not be resorted to. The management for these reasons has prayed to reject the reference.

11. It is seen from the records that on behalf of the management MW1 is examined. According to

his evidence the first party workmen worked between 1986—88. He was working as casual labourer. He was not terminated. The workman himself discontinued the work. The allegations made by the workmen are not correct.

12. I have heard the arguments and perused the available material. At the very outset I am of the opinion that there is no merit in this dispute because the first party workman has not filed any documentary evidence to establish that he was entitled for absorption as per rules. The department has issued orders and circulars as and when required and according to the management this workman has not attended duty after some period and therefore, the question of termination does not arise. Some orders and circulars are filed and I have read them carefully. From going through them it is clear that the first party workman has not fulfilled any of the criteria for his absorption.

13. MW1 has categorically stated that the workman himself discontinued the work. There is no reason to disbelieve this evidence. Absolutely there is no material before us to say that the dispute has any merit.

14. Similar reference i.e. CR No. 116/97 was before this tribunal and the reference is rejected.

15. I have referred this because in the cross examination of MW1 of this case the learned advocate has submitted that except the name of the workman the evidence in that case be taken as evidence in this case. In CR No. 116/97 MW1, M. Narayan has categorically stated that the workman has left the job. He has stated in his cross-examination that nothing was given in writing but it was only oral.

16. Absolutely there is no material before us to say that the reference has any merit. Accordingly I proceed to pass the following order:

ORDER

The reference is rejected

(Dictated to PA, transcribed by her corrected and signed by me on 2nd August, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.आ. 2398.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय लोक निर्माण विभाग के प्रबंधन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं. एल-42011/39/2000—आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2398.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of

the Central Government Industrial Tribunal-cum-Labour Court Lucknow, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workman, which was received by the Central Government on 20-8-2001.

[No. L-42011/39/2000-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT :

Rudresh Kumar, Presiding Officer

ADJUDICATION

I. D. No. 158/2000

Ref. No. L-42011/39/2000/IR(DU) dtd. 29-9-2000

BETWEEN

The Regional Secretary,
Central P.W.D. Mazdoor Union (North Zone-I)
Lucknow-226001
(in the matter of Asharfi Lal & 39 Others)

AND

The Superintending Engineer (P&A),
CPWD, Central Division-I,
Lucknow (U.P.)-226001.

AWARD

By reference No. L-42011/39/2000-IR(DU) dated 22-9-2000, in the Central Government in the Ministry of Labour in exercise of powers conferred by clause (d) Sub-section (1) and Sub-section 2(A) of Section 10 I. D. Act, 1947 (14 of 1947), made over the industrial dispute between The Regional Secy., Central PWD Mazdoor Union (N. Zone-I), Lucknow-226001 espousing cause of Asharfi Lal & 39 others and The Superintending Engineer (P&A), CPWD, Central Division-I, Lucknow for adjudication.

The reference is produced as under :

"Whether the action of the management of the Central Public Work Deptt. in not Regularising The Service of Sh. Asharfi Lal & 39 other Dasti Rasheed Karmachari (List enclosed) were legal and justified ? If not, to what relief the workmen are entitled and from which date ?"

C.P.W.D. Mazdoor Union representing 39 (annexure) workmen holding different posts in group D category has filed present claim seeking regularisation of the services. These workmen were admittedly appointed on different designation in between 2-12-1985 to 25-10-1989 on daily wage basis against group D category posts of Beldar, Chawkidar and other similar pos's. They are working continuously since their date of appointment and were also accorded temporary status about more than seven years back. These employees have not been regularized so far despite creating of posts by the department vide No. 19(6) सं० परि० (वि०) [E-5/3177 dt. 19-11-92.

whereby 8982 additional posts were created to adjust the working group D employees. On 24-8-95 the Director General sought full details of those workmen on daily wage appointed prior to 1990. A letter was addressed to the Regional Chief Engineer. In response to the said letter, Regional Chief Engineer by its letter dt. 25-9-1995 submitted his report to Director General. However, regularization orders were not issued so far. It is also alleged juniors to the workmen viz. Vir Pal Singh and Munna Lal were regularized ignoring them.

The management did not challenge facts recited in the claim statement that the workmen named in the enclosed annexure, were appointed from 2-12-1985 to 25-10-1989 and they are working since then and they were also granted temporary status. Main plea of the management is that these appointments were made against the ban order to engage daily wagers w.e.f. 19-11-1985. The workmen were appointed subsequent to the ban order and their regularization in services depended on policy decision of Government of India and Director General, C.P.W.D. in accordance with recognized procedure. Their services cannot be regularized at local level. The local management forwarded their name for appropriate action giving full details.

Management also submitted that this Tribunal cannot adjudicate on policy matters. Regularization of the workman against the ban order is a matter related to policy decision of the government, and so the reference is not competent.

As mentioned earlier, factual disputes in the matter of appointment, continuous in service, working against regular posts and granting temporary status to the workmen have not been disputed. The solitary question emerges whether the workmen are entitled to regularization against the sanctioned posts mentioned earlier and also in the light of the fact that two unions were regularized in compliance of the order passed by the Central Administrative Tribunal. It is not informed that the order of the Central Administrative Tribunal, granting relief of regularization were challenged by the management at any forum.

The workmen have pleaded that the apex court in writ petition No. 9966 and 563-70/83, Surendra Singh & others Vs. Engineer in Chief, C.P.W.D. & others made following order :

"We allow both the writ petitions and direct the respondents, as in the Nehru Yubak Kendra case (Supra) to pay to the petitioners and all other daily-rated employees, the same salary and allowances as are paid to the regular and permanent employees with effect from the date when they were respectively employed.

We also record our regret that many employees are kept in service on a temporary daily-wages basis without their services being regularized. We hope that the Govt. will take appropriate action to regularize the services of all these who have been in continuous employment for more than six months.

Two principles were evolved in the said order by the Apex court i.e. equal pay for equal work and also regularization of those working continuously for more than six months. In the present reference, the

question of equal pay for equal work is not covered. The workmen have already derived temporary status and so quantum of remuneration is not covered in the scope of reference. Thus, the Tribunal is required to deliberate on the secured principle i.e. regularization after continuous service for six months. In the present case, the management of the CPWD has admitted that the workmen are continuously working for more than 16-17 years. This is also not pleaded that they are not working against regular posts or they are surplus, looking into the requirement of the department.

The top management of CPWD was not unaware with inductment of workmen despite ban order effective from 19-11-1985. There is no material on record that any action was taken against those appointing against ban order. In any event those appointed and working continuously cannot be denied regularization in light of the principal laid down by the apex court. Management though pleaded its inability to regularize services at local level on the ground of matter being in nature of policy matter. However, it has not been disputed that posts were created on 19-11-92 only to adjust daily wagers. Management did not file any material to indicate that the creation of posts by the above said letter, did not apply to workmen or those additional posts were created to some other category of employees. Accordingly, it can be safely inferred that the posts were created to adjust those appointed against the ban order. Had it is not been so, names of those working before 1990 could not have been obtained by the superior officers of the department. It reflects also that the posts existed and regularization orders have not been made on the plea of policy decision. If regularisation of two junior employees could be made ignoring the policy decision of the Central Administrative Tribunal without any challenge, this implies that the workmen could also be regularized and what is needed to the management is the court's direction. In fact, there is no policy decision. Had it been so, additional posts could not have been sanctioned for the workmen appointed much prior to 1990. A number of posts in group D are vacant as recited in rejoinder. This fact is not disputed by management by supplementary or otherwise.

Accordingly, in view of the principle for regularization laid down by the apex court and also in view of creation of posts and actions taken seeking details of those workmen, working prior to 1990 there is no escape but to hold that the workmen whose names find reference in the annexure are entitled to regularization according to the inter-se-seniority, in preference to juniors, if regularized earlier.

The reference is adjudicated as above.

Lucknow, dtd. 13-8-2001

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.पा. 2399.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पी एण्ड टी डिपार्टमेंट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अर्थात् निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली

के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं. एल-40012/100/88-डी. II(बी)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2399,—In pursuance of Section 17 of the Industrial dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of P&T Deptt. and their workman, which was received by the Central Government on 20-8-2001.

[No. L-40012/100/88-D.II(B)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESENT :

Shri Rudresh Kumar, Presiding Officer

ADJUDICATION

I. D. No. 51/89

Ref No. L-40012/100/88-D-2(B) Dtd. 7-5-1989

BETWEEN

**Ram Suresh Chaudhary
C/o Babban Chaudhary
New Light Engineering Corporation,
New Delhi-44**

AND

**Sr. Supdt. of Post Offices
Kalkaji Post Office,
New Delhi.**

AWARD

By reference No. L-40012/100/88-D-2(B) dated 7-5-1989, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of I. D. Act, 1947 (14 of 1947) made over this industrial dispute between Ram Suresh Chaudhary and Sr. Supdt. of Post Offices, New Delhi for adjudication.

The reference is produced as under :

"Whether the action of the P&T Deptt. in terminating the services of Shri Ram Suresh Chaudhary, daily wager postman w.e.f. 20-1-84 is justified? If not to what relief the workman is entitled?"

2. Admitted case of the parties are, that the workman, Ram Suresh Chaudhary, was appointed as daily wager Postman on 27-4-1981 and served till 19-1-84. His services were discontinued w.e.f. 20-1-84. According to the workman, he was a daily wager and

worked for more than 240 days in any calendar year during the said period and so his services should have been regularised against the post of Postman. The management, instead of regularising his services terminated him despite rendering satisfactory service for above three years, without giving benefit of Section 25-F of the I.D. Act.

3. In the written submission, the workman, also, has referred facts regarding his appointment from Dec. 1973 to Oct. 1974 and termination without making compliance of Section 25-F I.D. Act. It is to mention that the scope of reference does not cover the alleged termination dt. 19-10-74, as such for the purposes of present discussion, the services rendered by the workman in between the period 27-4-81 to 19-1-84 has to be taken into consideration, to adjudicate whether termination w.e.f. 20-1-84 is legal and justified?

4. The management has not disputed working rendered by the workman, stating that he worked as daily wager Postman against the vacancy till 19-1-1984 and his services were discontinued w.e.f. 20-1-84. Also, the management has not disputed that the workman continuously worked during the said period. It is, thus, obvious that the workman worked for more than 240 days continuously in the calendar years 1981, 1982 and 1983 and was entitled to protection of section 25-F of the I.D. Act.,

5. It is pleaded by the management that the services of workman was not regularised despite his rendering services for aforesaid periods for reasons : that he was not qualified to hold the post of Postman. Minimum educational qualification prescribed for the post of Postman should be X class while the workman is only VII class passed. Being ineligible for the post of Postman, his non-consideration for regularisation was justified. It is not permissible in law, to grant relief of reinstatement if the workman is ineligible to hold an office. Of course, he was a daily wager and the management at the time of discontinuation of his service should have paid him notice pay, and retrenchment compensation etc. under section 25-F of the I.D. Act. Since the management failed to comply with the provisions of section 25-F, the workman is entitled to continuity with back wages

6. The workman does not possess minimum qualification of the post, hence, instead of ordering continuation in service, it would be appropriate to consider lump sum compensation. He was a daily wager and about 15 years passed since he was discontinued. The management did not comply with the provisions of section 25-F of the I.D. Act, and the workman is entitled to back wages. Thus, in totality of the facts, a lump sum compensation of Rs. 1,00,000 (Rupees One Lakh) only seems just.

7. Accordingly, the workman with less qualification than the minimum prescribed is not entitled to continuation in service and is awarded Rs. 1,00,000 (One lakh) only as compensation towards full and final settlement of the claim.

8. Award is as above.

New Delhi.

16-08-2001.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का. अ. 2400.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, प्रिन्सिपल, केन्द्रीय विद्यालय के प्रबन्धन के संसद नियोजको और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण नासिक के पंथाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[स. एल-42012/148/97-आईआर(डीयू)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2400.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Nashik as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Principal, Kendriya Vidyalaya, and their workman which was received by the Central Government on 20-8-2001.

[No. L-42012/148/97-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S. S. HIRURKAR, INDUSTRIAL TRIBUNAL. AT NASHIK

Ref. (IT) No. 5/98.

BETWEEN

The Principal,
Kendriya Vidyalaya,
Air Force Station,
Deolali South, Nashik-422101.

.. First Party.

AND

Shri R. V. Palde,
P. Lahvit, Mumjobacha Makl,
Tal. and Distt. Nashik-422401.

.. Second Party.

Coram : Shri S. S. Hirurkar, Industrial Tribunal.

Appearances :

None for the First Party.

Shri S. D. Gaṅgurde, Advocate for Second Party.

EXPARTE AWARD DECLARED

It is the reference adjudicated to this Tribunal by Govt. of India; Ministry of Labour, New Delhi by its order dtd. 18-5-98. Reference was adjudicated in exercise of the powers confirmed by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 by the Central Government, regarding the dispute mentioned in the Schedule of reference which reads as under :—

SCHEDULE

“Whether the action of the Principal of the Kendriya Vidyalaya, Air Force Station, Deolali South, in terminating the services of Shri R. V. Palde is legal and justified? If not, what relief to which the workman is entitled?”

After reference was adjudicated, notices were issued to the parties. Statement of claim was filed by the 2nd party workman on 29-9-98. It is mentioned by the 2nd party workman in the written statement that he has worked with the respondent as a peon from 10-11-95 to 10-11-1996. His services were terminated orally without assigning any reason, without following due process of law under the provision of Industrial Disputes Act. In the conciliation proceedings, the matter could not be settled between the parties. Therefore, failure report was submitted. Thereafter this matter was adjudicated to this Tribunal. It is prayed by the workman that termination being illegal, unjustified, employer be directed to reinstate the workman with continuity of service and full back wages.

2. Notice was issued to the 1st party employer who appeared in the Court by submitting application Ex. C-1 and Ex. C-2 through posts. In view of the prayer made in those applications, adjournments were granted. But later on nobody remained present for the 1st party employer. Hence by order dtd. 14-12-2000 the court proceeded exparte. Thereafter matter was adjourned from time to time then also nobody remained present in the Court for 1st party employer.

Hence, 2nd party workman was allowed to file affidavit below Ex. U-5 to adduce evidence on 8-6-2001.

3. Second party workman in his affidavit below Ex. U-5 has stated all the facts in detail. After perusal of the affidavit, it is crystal clear that complainant has worked with the 1st party employer as a peon-cum-watchman and he has completed more than 240 days. His services were terminated without following provisions of Industrial Disputes Act so also retrenchment compensation under section 25(f) was not paid to him. Hence termination of 2nd party workman seems to be illegal. It is also stated by the workman that after his termination, Shri Jitendra Kambale, Ulhas Jadhav, Vinod Gaikwad were appointed as peon-cum-watchman and they are still working with the 1st party employer. Under such circumstances, since the services of the workman 2nd party were terminated illegally workman is entitled to get the relief of continuity of service with full back wages. Hence, I am constrained to hold that action of the Principal of Kendriya Vidyalaya, Air Force Station, Deolali, South, Nashik 422101 in terminating the services of Shri R. V. Palde is not legal and justified. Hence workman is entitled for reinstatement with continuity of service and full back wages. So I proceed to pass the award as follows :—

AWARD

1. 1st party employer i.e. the Principal, Kendriya Vidyalaya, Air Force Station, Deolali South, Nashik-422101 is hereby directed to reinstate Shri R. V. Palde in his usual post with continuity of service w.e.f. 11-11-96 and pay him full back wages from the date of termination till the date of reinstatement.

2. Award accordingly.

Place : Nashik.

Date : 27-7-2001.

S. S. HIRURKAR, Industrial Tribunal

नई दिल्ली, 23 अगस्त, 2001

का.प्र. 2401 : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अतिक्रमण वारंगल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2001 को प्राप्त हुआ था।

[सं. ए-40025/6/2001-आईआर (डोय)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd August, 2001

S.O. 2401.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Warangal, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 23-8-2001

[No. L-40025/6/2001-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT AT WARANGAL

PRESENT :

Sri V. Appalanarasimham, B.Sc., B.L., Judge.
Thursday, the 6th day of January, 2000

Industrial Dispute No. C. 13 of 1998

BETWEEN

S. Narsaiah S/o Venkataiah,
Ex. Casual Mazdoor,
C/o P. Surrender Kumar, Advocate,
Padmakshi Colony, Marankonda.

... Petitioner

AND

The Telecom District Manager,
Telecom Department,
Warangal.

... Respondent.

This Industrial Dispute coming on before me for final hearing on 17-12-1999 upon perusing the petition, counter and all other documents on record and upon hearing the arguments of Sri P. Surrender Kumar, advocate for the petitioner and Sri M. Sada Sivadn, A.G.P. for the respondent the matter having been stood over for consideration till this day the court passed the following:—

AWARD

The petitioner filed this petition Under Section 2-A(2) of the I.D. Act to set aside the oral termination order dated 7-11-1998 passed by the respondent and to direct the respondent to reinstate the

petitioner as Casual Mazdoor with continuity of service and all benefits.

2. The brief averments in the petition filed by the petitioner are as follows.—The petitioner was appointed as Casual Mazdoor in Telecom Department during 1986. He continuously worked as Casual Mazdoor without any break of service from 1986 to 7-11-1998. Suddenly the respondent terminated the services of the petitioner orally on 7-11-1998 without assigning any reasons. Petitioner completed 240 working days prior to his termination. The respondent has not followed the procedure under Section 25-F of I.D. Act and so, the termination is illegal. Juniors of the petitioner are retained and petitioner was terminated from service. Respondent has not followed the provisions of Section 25-G of I.D. Act. The petitioner is now aged 35 years and he cannot secure another job at this age. So, this petition is filed for reinstatement of the petitioner with all benefits by setting aside the termination order

3. The brief averments in the counter filed by the respondent are as follows.—The petitioner worked as Casual Mazdoor from 1-5-1995 and not from 1986. Petitioner was not terminated from service. As there is no necessity to engage Casual Mazdoor for want of any work, the services of the petitioner were kept out of duty, but he was not terminated. Petitioner never completed continuous service of 240 days in any calendar year. As the services of the petitioner are casual in nature, the provisions of Section 25-F of I.D. Act are not applicable. So, also Section 25-G of I.D. Act is not applicable. The petition is liable to be dismissed.

4. The petitioner is examined as W.W.-1 and Exs. W-1 to W-4 are marked. Sub-Divisional Engineer is examined as M.W.-1 on behalf of the respondent.

5. Arguments of advocate for the petitioner and A.G.P., for the respondent are heard.

6. The point for consideration is whether termination of the petitioner orally on 7-11-1998 by the respondent is illegal and if so, to what relief the petitioner is entitled?

7. Point :—The respondent admitted the fact that petitioner worked as Casual Mazdoor in Telecom Department from 1-5-1995 to September, 1998. M-1 deposed in his evidence that petitioner stopped coming for duty from 1-11-1998 on the ground that his salary was not paid on 31-10-98 for October, 1998. M.W.-1 clearly admitted in his evidence that petitioner worked for 240 days in a calendar year between 1-5-95 to 31-10-1998. W.W.-1 deposed in his evidence in support of the averments in the petition. The pay slips for the wages paid to the petitioner as Ex. W-2 and pay receipts under Ex. W-3 are admitted by M.W.-1 also. Ex. W-4 is the identity card of the petitioner issued by S.D.O.T., Warangal. Ex. W-1 is the attendance book for the attendance of the petitioner on different dates duly signed by the officer of the Telecom Department. Petitioner failed to place any satisfactory material to show that he worked from 1986 onwards. However it is clearly established that petitioner worked continuously from 1-5-1995 to 31-10-1998 by working 240 days in a calendar year

prior to the termination on 7-11-1998. So respondent is bound to follow the procedure contemplated under Section 25-F of I.D. Act before terminating the services of the petitioner. Section 25-F of I.D. Act is mandatory. Respondent failed to follow the mandatory requirement under Section 25-F of I.D. Act, by giving one month notice or by paying wages for one month in lieu of notice. So, the termination is illegal. The respondent stated in counter that petitioner was kept out of the duty for lack of work. M.W.-1 deposed in his evidence that petitioner voluntarily stopped attending for duty from 1-11-1998 on the ground that his salary was not paid for October, 1998 on 31st October, 1998. The respondent has taken inconsistent pleas and so the stand taken by the respondent is nothing but false. This court has no hesitation to hold that the respondent terminated the services of the petitioner illegally, even though he completed 240 days continuous service in a calendar year prior to the date of termination on 7-11-1998, and without following the mandatory requirement under Section 25-F of I.D. Act. Therefore, the termination order dt. 7-11-1998 against the petitioner passed by the respondent orally is liable to be set aside.

8. The petitioner is now aged 35 years. He cannot secure job at this age. He has to maintain himself and his dependants for a long period of more than 30 years. Simply because, there is no available post in Telecom Department, re-instatement of the petitioner shall not be refused in the given circumstances of the matter. It would be unreasonable to hold that petitioner is entitled only for one months wages and compensation under Section 25-F, G of I.D. Act. It is a fit case to order for reinstatement of the petitioner as Casual Mazdoor and the respondent shall reinstate the petitioner as Casual Mazdoor, as the respondent illegally terminated the services of the petitioner without following the mandatory procedure under provisions of I.D. Act. However this court is not inclined to give continuity of service or back wages, as the post held by the petitioner is only contingent in nature. Point is answered accordingly.

9. In the result, an award is passed by setting aside the termination of the petitioner oral orders dt. 7th November, 1998 passed by the respondent and the respondent is directed to reinstate the petitioner in Telecom Department as Casual Mazdoor as "FRESH RECRUIT". The petitioner is not entitled for continuity of service or back wages. This award shall come into force within 30 days or from the date of its publication, whichever is earlier by virtue of the powers conferred to this court under Section 17-A of I.D. Act.

Dictated to stenographer and transcribed by him, corrected and pronounced by me and given under my hand and seal of this court on this 6th day of January, 2000.

V APPAI ANARASIMHAM, Chairman-cum-Presiding Officer

APPENDIX OF EVIDENCE

Witnesses examined :

For Petitioner/Workman :

For Respondent/Management :

W.W.-1 S. Narsaiah.

M.W.-1 C.S.R.K. Shastri.

Exhibits Marked :

For Petitioner/Workman :

Ex. W-1 dt. 1-9-95—Days Book of Sri S. Narsaiah showing the attendance and certified by the Department.

Ex. M-2 dt. —Bunch of (10) pay slips.

Ex. W-3 —(15) Pay receipts of different months.

Ex. W-4 dt. 4-7-1997—Identity card issued to the petitioner by the Sub-Divisional Officer, Warangal.

For Respondent/Management : Nil.

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2402: औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध से निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण पणजी (गोवा) के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2001 को प्राप्त हुआ था ।

[सं. पल-40012/40/93—आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 24th August, 2001

S.O. 2402.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Panaji (Goa) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 24-8-2001.

[No. L-40012/40/93-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(BEFORE SHRI AJIT J. AGNI, HON'BLE
PRESIDING OFFICER)

Ref. No. R-IT/78/94

Shri Basavaraj Yamanappa Hannur,
C/o A. S. Kori, L/M,
Office of Sub-Divisional Officer (Phones),
Margao-Goa. . . Workman/Party I.

V/s.

The Telecom District Manager,
Department of Telecommunication,
Panaji-Goa. . . Employer/Party II (1)

The Sub-Divisional Officer (Phones),
Margao-Goa. Employer/Party II (2)

Workman/Party I—Represented by Adv. Shri
P. A. Kholkar.

Employer/Party II—Represented by Adv. E. P.
Budri Narayan.

Panaji, dated 30-7-2001

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Central Government by order dated 25-7-1994 bearing No. L-40012/40/93-IR(BU) referred the following dispute for adjudication by this Tribunal :

“Whether the action of the Department of Telecom District Manager, Goa, and SDO Phones, Margao, Goa, in stopping from services to Shri Basavaraj Yamanappa Hannur, ex-casual mazdoor, with effect from 30-11-1986 is proper, legal and justified ?

If not, to what relief the workman concerned is entitled to ?”

2. On receipt of the reference a case was registered under No. IT/78/94 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The workman-Party I (for short, “workman”) filed his statement of claim at Exb. 6. The case of the workman in short is that he was employed as a casual mazdoor at Margao in the year October 1985 and worked continuously upto November 1986. From December 1986, the workman was not taken for work without complying with the provisions of Section 25F of the Industrial Disputes Act, 1947. The workman thereafter, made a representation dated 13-12-90 to the Sub-Divisional Officer (Phones), Margao Goa, bringing to his notice that the services of the workman were terminated illegally and in violation of Section 25-F of the Industrial Disputes Act, 1947. The workman also brought to the notice of the S.D.O. that his termination of service was contrary to the order and directions of the Supreme Court in Writ Petition No. 1280/89 whereby the Department of Telecommunication was directed to take back all the casual mazdoors who were discharged after 30-3-1985. Thereafter, the workman raised a dispute before the Assistant Labour Commissioner (Central) at Vasco by his representation dated 19-9-92. The Employer/Party II (For short, “Employer”) filed their reply before the Assistant Labour Commissioner (Central) at Vasco, resulted in failure and consequently, a failure report dated 15-1-93 was submitted to the Ministry of Labour. The contention of the workman is that the employer terminated his services w.e.f. 1-12-86 without complying with the provision of Section 25F of the Industrial Disputes Act, 1947, and also without following the directions given by the Supreme Court in Writ Petition No. 1280/89. The workman therefore stated that he is entitled to reinstatement in service with full back wages from 1-12-86 and all other consequential

benefits and the reliefs claimed by him in his statement of claim.

3. The employer filed their written statement at Exb. 7. The employer stated that the workman was removed from service as per the policy of the DOI and the workman was paid notice pay and hence he was not entitled to any reliefs. The employer stated that the removal of the workman from service was governed by the Agreement in R.C.M. between the Administration and the Union wherein it was agreed that those casual mazdoors who were recruited after 7-5-95 would be removed from service. The employer stated that the workman has failed to justify as to why he kept quiet during the period from 1986 to 1990 and further stated that the workman is now trying to take some advantage of some circular issued by the DOT regarding the guidelines for grant of temporary status to casual mazdoors. The employer admitted that the workman made a representation to the Assistant Labour Commissioner (Central) Vasco, and that a failure report was submitted by him to the Ministry of Labour. The employer stated that there is no dispute within the meaning of the Industrial Disputes Act as the workman has been removed from service as per the circular issued by the DOT and the workman did not raise any dispute from the time he left the job in the year 1986 till the year 1990. The employer stated that the Judgment of the Supreme Court in Writ Petition No. 1280/89 is not applicable to the workman. The employer further stated that the workman is not entitled to any reliefs as claimed by him in the statement of claim and the reference is liable to be rejected.

4. On the pleadings of the parties, following issues were framed at Exb. 14 :

1. Whether the Party I proves that the Party II did not comply with the provisions of Section 25F of the I.D. Act and hence the termination of his services by the Party II is illegal ?
2. Whether the Party I proves that the termination of his services by the Party II w.e.f. 30th November, 1986 is illegal, improper and unjustified ?
3. Whether the Party II proves that the termination of the services of the Party I w.e.f. 30-11-86 is in terms of the Agreement between the Administration and the Union ?
4. Whether the Party I is entitled to any relief ?
5. What Award ?

5. After the issues were framed both the parties submitted that they be permitted to file Affidavitary evidence and they further submitted that will not cross examine each other's witness. Accordingly both the parties filed their affidavitary evidence and they also produced documents in support of their case. In the written arguments filed by the employer reference was made to the decision of the Supreme Court in the case of Sub-Divisional Inspector of Post Vaikam and Others V/s. Thayyuan Joseph and others reported in 1996 (2) Supreme Court 487 (AIR 1996 SC 1271-1996 LIC 1059) wherein the Supreme Court

held that the Post and Telecommunication Department is not an industry. Though there was no specific pleading from the employer in this respect, still the issue arose whether the Telecommunication Department is an "industry" and whether the dispute referred is an industrial dispute. After hearing both the parties on this issue this Tribunal passed an Award dated 6-8-97 holding that the Telecommunication Department is not an industry within the meaning of Section 2(J) of the Industrial Disputes Act, 1947 and hence the dispute referred by the Government is not an industrial dispute. This Tribunal therefore rejected the reference holding that the reference made by the Central Government is bad in law. This Award was subsequently challenged by the workman in the High Court of Bombay at Goa—Panaji in Writ Petition No. 103/98 and the Hon'ble High Court by common Judgement dated 12th March, 1998 set aside the Award dated 4-8-97 of this Tribunal in view of the subsequent Judgement of the Supreme Court in the case of General Manager, Telecom v. S. Srinivasa Rao & others reported in 1997 (9) Supreme 469 wherein the Supreme Court set aside its earlier judgement in Thayyur Joseph's case (supra) and held that Telecommunication Department of the Union of India is an "industry" as defined in Section 2(J) of the Industrial Disputes Act, 1947. The Hon'ble High Court remanded the matter back to this Tribunal to proceed in accordance with law. After the matter was remanded the parties were duly notified. The workman was represented by Adv. Shri P. Kholkar and the Employer was represented by Adv. Shri S. A. Baidarkar. They submitted that the written arguments of the parties are already on record and they do not want to make any further submissions.

6. My findings on the issues are as follows :

- Issue No. 1 : In the affirmative.
- Issue No. 2 : In the affirmative.
- Issue No. 3 : In the negative.
- Issue No. 4 : In the negative.
- Issue No. 5 : As per order below.

REASONS

7. Issue Nos. 1, 2 & 3.—All these issues are taken up together because they are inter-related. The workman as well as the employer have filed their written argument and I have considered them. Both the parties in their evidence and in their written arguments have referred to the scheme framed by the Telecommunication Department known as "Casual Labourers (Grant of Temporary Status and Regulation) Scheme", in the year 1990, based on the judgment of the Supreme Court, wherein guide lines were given to deal with the matter of granting temporary status to casual labourers. Both the parties have also produced the necessary documents on the said scheme. In my view, in the present case the pleadings of the parties and their evidence on the point of granting temporary status to the workmen and/or regularising his service are totally irrelevant and cannot be considered as the issue involved in the present case is whether the services of the workman were illegally terminated by the employer. The issue whether the workman is entitled to the temporary status and

regularisation as per the scheme is an entirely separate issue and if the same is decided in this reference, it would amount to traveling beyond the scope of the reference which is not permissible under the law. There ought to be a reference to that effect from the Government. In order that the said scheme should be made applicable, the concerned workman must be in employment. Admittedly the scheme was introduced in the year 1990 when the workman was not in employment as according to the workman himself his services were terminated much prior to the framing of the scheme. Therefore in my view the only issue for consideration is whether the workman's services were illegally terminated from 30-11-1986 and if the answer is in the affirmative, to what relief he is entitled to. The employer has relied upon the judgments of the Supreme Court in the case of (1) Union of India and Others v. Tejram Parsharamji Bombhate and ors. reported in AIR 1991 SC 570 (2) Delhi Development Horticulture Employees Union v. Delhi Administration, Delhi, reported in AIR 1992 SC 769. I have gone through the said judgments and I am of the view that they are totally inapplicable to the facts in the present case.

8. In the present case the workman has filed his own affidavit whereas the employer has filed the affidavit of the Sub-Divisional Engineer (legal) Shri W. B. Miranda. The employer has not cross examined the workman nor the workman has cross examined the employer's witness. Both the parties have produced documents in support of their case. The workman has stated in his affidavit that he worked as casual mazdoor from 1-10-1985 to 30-11-1986. This statement of the workman has not been denied by the employer's witness Shri Miranda in his affidavit. Besides, the workman has produced at Exb. P-4 the minutes of the meeting dated 22-4-92 held by the Sub-Committee under the Presidentship of Chief Accounts Officer of the Telecom District Manager, Goa. The said minutes show that in the said meeting reinstatement cases of labourers was discussed, and as regards the workman it was admitted that he worked from October 1985 to November, 1986. Therefore it is an admitted fact that the workman worked as casual mazdoor with the employer from 1-10-1985 to 30-11-1986.

9. The workman in his affidavit has stated that he was told by the Junior Engineer not to come for work from 1-12-1986, but he was not given written notice. He has stated that his removal from service is pursuant to the letter dated 28-11-86 of the Sub-Divisional Officer (P) Margao, which contained a list of the casual mazdoors to be removed and his name was at serial No. 14 of the said list. He has produced the said letter along with the said list at Exb. P-1. The employer in his evidence has not denied this letter and the list. The employer in its evidence has admitted that the workman was removed from service w.e.f. 1-12-86. The employer's witness Shri Miranda has stated in his evidence that the workman was removed from service as per the policy of the D.O.M. covered under order circulated vide circular dated 30-3-1985, as the workman was recruited after 7-5-1985. He has stated that the workman was given notice before removal and the said removal was governed by the Agreement in R.C.M. between the Administration and the Union. The employer however did not produce the order of

the D.O.T. circulated vide circular dated 7-5-85 under which the services of the workman were terminated by giving notice to him nor the employer produced the Agreement in R.C.M. between the Administration and the Union. Therefore, there is no evidence to support the contention of the employer that the workman could be removed from service by giving to him only the notice. I therefore hold that the employer has failed to prove that the termination of service of the workman is in terms of the Agreement between Administration and the Union.

10. The workman has contended that since he had completed more than 240 days of service prior to his removal from service he was entitled to one month's notice and retrenchment compensation as per Section 25F of the Industrial Disputes Act, 1947. The Supreme Court in the case of General Manager, Telecom V/s. S. Srinivasa Rao and others reported in 1997(9) Supreme Court 469, has held that the Telecommunication Department of the Union of India is an "industry", as defined in Section 2(J) of the Industrial Disputes Act, 1947. Therefore the employer in the present case is an "industry" as defined under Section 2(J) of the Industrial Disputes Act, 1947. Now, the question is whether the workman Shri Bassavaraj Yamanappa Hannur is a "Workman" as defined under Section 2(S) of the Industrial Disputes Act, 1947. Admittedly the workman was employed as a casual mazdoor. The Division Bench of the Calcutta High Court in the case of Tapan Kumar Jana V/s. Calcutta Telephones and Others reported in 1988 11 LLJ 382, has held that a casual labourer employed in an industry for hire or reward will be a "workman". In that case the appellant Tapan Kumar Jana was appointed as a casual employee of the Calcutta Telephones. He was paid his wages on the 5th day of every month for the work rendered by him the preceding month and the amount was calculated at a daily rate. The point involved was whether a casual labourer is a "workman" within the meaning of Section 2(S) of the Act. The Calcutta High Court relying upon the judgment of the Supreme Court in the case of Digwadih Coliery V/s. Their Workman reported in 1965, 11 LLJ, 110, wherein it was held that the termination of the services of a badli workman amounted to retrenchment within the meaning of Section 2(oo) of the Act and that of the Madras High Court in the case of P. Joseph V/s. The Management of Gopal Textiles Mills reported in 1975 1-LLJ 136, wherein it was observed that the definition of "workman" does not exclude even the casual employee or a substitute like "badli", in para 15 of its judgement held as follows :

"The definition has not provided for the exclusion of a casual labourer from the category of a workman nor has it laid down that only the permanent employees of an industry will be workmen. Certain employees have been excluded from the definition of "workman" but such exceptions also do not include a casual labourer. The primary condition that has to be fulfilled by an employee to bring him within the definition of "workman" is that he must be employed in an industry for hire or reward. The concept of permanent employment is not the only criteria of

the definition of the term "workman". Any person or employee who satisfies the primary conditions as stated above and who does not come within the exceptions contained in the definition will be a workman. If a casual labourer is employed in an industry for hire or reward, he will be a "workman" within the meaning of Section 2(S) of the Act. There is nothing in the definition of terms "workman" which excludes a casual labourer."

In the case of Sakharani Govind Kadam V/s. David Brown Greaves Ltd., Pune, reported in 2000 1 CLR 180, the Bombay High Court disagreed with the findings of the Labour Court that the Petitioner being a casual employee was not entitled to claim the benefit of Section 25F of the Industrial Disputes Act, 1947. The Bombay High Court held that any employee who completes 240 days continuous service as contemplated by Section 25-B of the Industrial Disputes Act, 1947, is entitled to the benefit of Section 25F of the Act, if the occasion so arises. This shows that a casual labourer or employee is a "workman" under the Industrial Disputes Act, 1947 and is entitled to the benefits of the provisions of the said Act.

11. In the present case as mentioned earlier, it is an admitted fact that the workman was employed as casual mazdoor. Further as per the Judgment of the Supreme Court in the case of S. Srinivasa Rao (supra) the employer is a "industry" as defined under the Industrial Disputes Act, 1947. Applying the test laid down by the Calcutta High Court in the case of Tapan Kumar Jana (supra) and since the workman does not fall within the exceptions contained in the definition of "workman" and in view of the judgment of the Supreme Court in the case of Sakharani Govind Kadam (supra), the workman Shri Bassavaraj Yamanappa Hannur is a "workman" as defined under Section 2(S) of the Industrial Disputes Act, 1947 and therefore the provisions of the Industrial Disputes Act, 1947 applied to him. The employer has set up the defence that the workman was removed from service as per the policy of the D.O.T. covered under order circulated vide circular dated 30-3-1985. However, once the Industrial Disputes Act, applied to the workman, the provisions of the said Act were required to be followed at the time of removing him from service.

12. The contention of the workman is that at the time of his removal from service he was not given notice nor he was paid compensation as required under Section 25F of the Industrial Disputes Act, 1947. The question of complying with the provisions of Section 25F of the Act arises only if the services of the workman are retrenched. Section 2(oo) of the Industrial Disputes Act, 1947 defines retrenchment as follows :

- (oo) "Retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include ;
- (a) voluntary retirement of the workman ; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of

employment between the employer and the workman concerned contains a stipulation in that behalf ; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein ; or

(c) termination of the service of a workman on the ground of continued ill-health."

The workman was removed from service in the present case not as a punishment inflicted by way of disciplinary action nor his case falls within the exceptions given in Section 2(oo) of the Industrial Disputes Act, 1947. Therefore the case of the workman squarely falls within the meaning of retrenchment as defined in Section 2(oo) of the Industrial Disputes Act, 1947. Hence removal of the workman from service amounts to retrenchment. Section 25F of the Industrial Disputes Act, 1947 lays down the procedure to be followed while retrenching the workman. The said section lays down that no workman employed in any industry who has been in continuous service for not less than one year under the employer shall be retrenched by that employer until (1) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of the notice has expired or the workman has been paid in lieu of such notice, wages for the period of notice; (2) the workman has been paid at the time of retrenchment compensation which shall be equivalent of 15 days average wage for every completed year of continuous service or any part thereof in excess of six months and (3) notice in prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.

13. Section 25F of the Industrial Disputes Act, 1947 is attracted if the workman has been in continuous service. It states that a workman shall be deemed to be in continuous service for not less than one year. Section 25B of the Act, defines continuous service. It states that a workman shall be deemed to be in continuous service under an employer for a period of one year if the workman during the period of 12 calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than 190 days in the case of workman employed below ground in a mine and 240 days in any other case. In the present case the workman was not employed below ground in a mine. The workman has stated in his affidavit that he worked for 426 days between the period 1-10-85 to 30-11-86 and he worked for 365 days in 12 continuous calendar months from 1-10-85 to 30-11-86. This statement of the workman has not been denied by the employer in the affidavit of its witness Shri Miranda. In the statement of claim also filed by the workman at para - he had stated that he worked continuously for 426 days during the period 1-10-85 to 30-11-86. In the written statement the employer did not deny this statement of the workman. The services of the workman were terminated from 1st December, 1986, and hence during the period of 12

months preceding 1-12-86, the workman had worked for more than 240 days. The identity card produced by the workman at Exb. P-6 also supports this fact. The employer has also admitted this fact as can be seen from the minutes of the meeting dated 22-4-92 Exb. P-4, held by the Sub. Committee, under the Presidentship of Chief Accounts Officer of the Telecom District Manager, Goa. As per the minutes of the said meeting reinstatement cases of labourers was discussed and with reference to the workman Shri Bassavaraj it is mentioned that he worked for 426 days from October 1985 to November 1986 and has fulfilled the condition of working for 240 days in 12 calendar months. Thus there is an admission from the employer that the workman worked for more than 240 days during the period of 12 calendar months prior to the date of termination of his service. The Bombay High Court in the case of Sakhambari Govind Kadam (supra) has held that even a casual employee who completes 240 days continuous service as contemplated by Section 25B of the Industrial Disputes Act, is entitled to the benefit of Section 25F of the Act. Therefore the provisions of Section 25F applied to the workman. Though the employer's witness Shri Miranda stated in his affidavit that notice was given to the workman prior to his removal, no evidence has been produced by the employer in support of this contention. This was required as the workman had stated in his affidavit that he was not given notice of removal/retrenchment. The employer did not produce the copy of the notice which is said to have been given to the workman. The employer in its evidence did not state that besides giving notice, the workman was also paid the retrenchment compensation. It is the case of the employer itself that only notice was given prior to the removal of the workman from service. Thus admittedly no retrenchment compensation was paid to the workman at the time when he was removed from service. Since no retrenchment compensation was paid to the workman and there is no evidence that one month's notice was given to him prior to termination of his service nor he was paid notice pay in lieu of one month's notice, there is no compliance of the provisions of Section 25F from the employer.

14. It is a settled law that complying with the provisions of Sec. 25F of the Industrial Disputes Act, 1947 in case of Retrenchment is mandatory. The Supreme Court in the case of M/s. Avon Services Production Agency Pvt. Ltd. v/s Industrial Tribunal, Haryana and Others reported in AIR 1979 SC 170 has held that giving of notice and payment of compensation is a condition precedent in the case of retrenchment and failure to comply with the provisions prescribing conditions precedent for valid retrenchment in Sec. 25F renders the order of retrenchment invalid and inoperative. In the case of Gammon India Ltd. v/s. Niranjan Dass reported in 1984 (1) SCC 509, the Supreme Court has held that in the absence of compliance with the prerequisites of Sec. 25F, the retrenchment bringing about termination is ab-initio void. The same principles are laid down by the Supreme Court in the case of Narotam Chopra v/s. Presiding Officer, Labour Court, reported in 1989 Supp. (2) SCC 97, the authority on which the workman has relied upon. In the present case it has been held by me that the employer did not comply

with the provisions of Sec. 25F of the Act at the time of removal/termination of service of workman. This being the case the termination of service of the workman becomes invalid, illegal and inoperative. I, therefore, hold that the workman has succeeded in proving that the termination of his service by the employer is illegal, improper and unjustified. In the circumstances, I answer the issue nos. 1 & 2 in the affirmative and the issue no. 3 in the negative.

15. Issue No. 4: It has been held by me that the termination of service of the workman is illegal and unjustified. The normal rule is that when the order of termination is held to be illegal and unjustified, the workman should be reinstated in service with full back wages unless there are circumstances which do not warrant reinstatement or full back wages. One of the factors to be considered is the past conduct of the workman and his gainful employment. In this case there is no evidence on record to show that the past conduct of the workman was not good. There is also no evidence from the employer that the workman is gainfully employed. However a reasonable presumption can be drawn that being a casual worker he could get work intermittently. The employer has relied upon the Judgment of the Supreme Court in the case of Bhoop Singh v/s. Union of India & Others reported in AIR 1992, SC 1414 in support of its contention that no relief should be granted to the workman because he has not explained the delay in raising the dispute. The Supreme Court in the said case held that inordinate and unexplained delay or laches is by itself a ground to refuse relief to the Petitioner in that case, irrespective of the merit of his claim. The Supreme Court held that if a person entitled to a relief chooses to remain silent for long, he thereby gives rise to reasonable belief in the mind of others that he is not interested in claiming that relief. Similar principles are laid down by the Supreme Court in the case of Balbir Singh v/s. Punjab Roadways and anr. reported in 2001 I CLR 788. In this case orders of punishment were passed against the Petitioner employee in June 1978, October 1983, April 1987, November 1990 and May 1991. The employee raised industrial dispute in respect of the said punishment and the said dispute was referred to the Tribunal by the State Government in the year 1995. The tribunal held that the order of punishment were bad because they were passed without holding proper enquiry. The Tribunal refused to give relief in respect of the orders excepting the last order dated 10th May 1991, on the ground of delay. The Writ Petition which was filed by the employee was dismissed by the Punjab and Haryana High Court holding that the dispute was belated and the award of the Tribunal was confirmed. The judgment of the High Court was challenged in appeal before the Supreme Court. It was observed by the Supreme Court that whether relief to the workman should be denied on the ground of delay or it should be appropriately moulded is at the discretion of the Tribunal depending on the facts and circumstances of the case, but the discretion is to be exercised judicially. The Supreme Court dismissed the appeal holding that there was no ground to interfere with the discretion exercised by the Tribunal. In the case of Telecom District Manager, Belgaum v/s. A. A. Anand & ors. reported in 2001 I CLR 114, the Karnataka High Court held that the reference was

not maintainable because of laches committed by the workman in seeking relief. In that case the High Court found that there was undue delay of 7 to 9 years in raising the dispute before the Tribunal. The High Court referred to the Judgment of the Supreme Court in the case of Nedungadi Bank Ltd. v/s K. P. Madhavankutti and others reported in 2000 (1) SLR 630 [2000(2) SCC 455] and stated that above principles have been reiterated by the Supreme Court in this judgment. The High Court quoted para 6 of the judgment wherein the Supreme Court has held that—

“Law does not prescribe any time-limit for the appropriate Government to exercise its power under Section 10 of the Act. It is not that this power can be exercise at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after lapse of about seven years of order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Sec. 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. Infact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand realised by the respondent for raising industrial dispute was ex facie bad and incompetent.”

In the case of Ratan Chandra Samanta & Others v/s Union of India & Others reported in AIR 1993 SC. 2276 the casual labourers of South Eastern Railway claimed re-employment alleging that their services were retrenched. The Supreme Court disallowed their claim holding that delay itself deprives a person of his remedy available in law, and that in the absence of any legislation or any fresh cause of action a person who has lost his remedy by way of lapse of time loses his right as well. In that case 15 years had expired from the date of retrenchment. The Supreme Court observed that the casual labourers/petitioners had not taken any step to enforce their claim before the Railways except sending a vague representation. In the case of Inder Singh and Sons Ltd., v/s. Their Workmen, reported in 1961 II ILL 89 the Supreme Court has held that it is a well accepted principle of industrial adjudication that overstale claims should not generally be allowed or encouraged unless there is a satisfactory explanation for the delay and that whether the claim has become too stale or not will depend on

the circumstances of each case. The Supreme Court held that apart from the obvious risk to industrial peace from the entertainment of claims after a considerable long lapse of time, it is necessary also to take into account the unsettling effect this is likely to have on the employer's financial arrangement. The Bombay High Court in the case of *State of Maharashtra vs. Enyanshwar Rukmaji Aher & anr.*, reported in 1998 1 CLR 522 has held that the competent authority would be justified in rejecting a reference for adjudication in respect of demands which are over-stale. The High Court has further held that when the demands which are stale are referred for adjudication, the claimant employee is necessarily required to explain the reasons for the inordinate delay in approaching the conciliation officer or his inaction for such a long period, and if such an explanation does not come forward or if the adjudicator is not convinced by the reasons given in respect of such a delay or in action on the part of the claimant employee for adjudicator has the powers to reject the reference.

16. What emerges from the judgments of the Supreme Court and of the High Courts discussed above is that even though no limitation is prescribed under the Industrial Disputes Act, 1947, the dispute should be raised by the workman at the earliest. The Tribunal will be justified in rejecting the reference and/or not granting relief to the workman even if the termination is illegal where there is inordinate delay on the part of the workman in approaching the conciliation officer. Further if there is undue delay or latches the workman has to explain satisfactorily the said delay. The lapse on the part of the workman to satisfactorily explain the undue delay disentitles him the remedy available under the law. In the present case the employer had taken the defence in the written statement itself that the workman is not entitled to any relief on the ground of unexplained delay and latches in raising the dispute. This being the case the burden was on the workman to satisfactorily explain the delay caused in raising the dispute by him. The service of the workman was terminated from 30-11-1986. The workman made the representation to the employer for the first time by letter dated 13-12-90. This means that he made the representation against termination of his service only after a period of 4 years. The workman in his affidavit evidence has tried to explain that till 12-12-90 he had been visiting the office of the S.D.O.(P) Margao making verbal requests to reinstate him. This explanation given by the workman does not appear to be reasonable and I find it difficult to accept the same. It is difficult to believe that a person would approach the employer again and again continuously for a period of 4 years, making the request for reinstatement in spite of knowing that the employer is not listening to his request. Even if it is assumed that the workman had been approaching the employer as stated by him, the said explanation is not satisfactory. Once the workman had come to know that the employer was not interested in reinstating him, he ought to have raised the dispute immediately and not made the representation after the lapse of 4 years. In my view the statement of the workman that he used to visit the office of the S.D.O. till 12-12-90 and making verbal requests to reinstate him in service is an after thought and it is made by him

only to cover up the period from that date of termination of service till the date of making the representation. This is evident because the workman in his affidavit evidence has stated that in the month of December 1990 the union told him that the Telecom Department on the basis of the decision given by the Supreme Court has framed a scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme" and on the basis of the said scheme the department vide circular dated 7-6-90 issued guidelines to deal with the matter of temporary status to the eligible casual mazdoors and that the union told him to make representation to the SDO (P) Margao, for reinstatement and accordingly he made the representation on 13-12-90. This clearly shows that the workman made the representation on 13-12-90 only in view of the circular dated 7-6-90 of the Telecommunication Department and the advice from the Union. Prior to that the workman had no intention to raise any dispute regarding termination of his service. Therefore the workman's statement that he had been visiting the office of the SDO till 12-12-90 making oral requests for reinstatement is nothing but an after thought and made with the ulterior motive of covering the long period of delay. I, therefore, hold that there is undue delay and latches on the part of the workman in raising the dispute. The delay is of more than 4 years and no satisfactory explanation has been given by the workman for this long delay nor the explanation which the workman has tried to give is acceptable. As held by the Supreme Court in the case of *Ratan Chandra Samanta (supra)* the workman has not only lost his remedy by way of lapse of time but has lost his right also. This being the case even though it has been held by me that termination of service of the workman is illegal and unjustified, he is not entitled to any relief on account of undue delay and latches, which has not been satisfactorily explained by the workman. Hence, I hold that the workman is not entitled to any relief, and as such I answer the issue no. 4 in the negative.

In the circumstances, I pass the following order.

ORDER

It is hereby held that the action of the Department of Telecom District Manager, Goa and S.D.O. (Phones), Margao, Goa, in stopping from services to workman Shri Basavaraj Yamanappa Hannur, ex-casual mazdoor, with effect from 30-11-1986 is not proper, legal and justified. However, it is hereby further held that the workman Shri Basavaraj Yamanappa Hannur is not entitled to any relief.

No order as to costs. Inform the Government accordingly.

AJIT J. AGNI, Presiding Officer

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2403.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार दरमन्चा विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्तर्गत में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के

पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को
24-8-2001 को प्राप्त हुआ था।

BETWEEN

In ID Nos.

[स. एल-40012/90/2000-आईएमए (डीयू),
स. एल-40012/91/2000-आईएमए (डीयू),
स. एल-40012/88/2000-आईएमए (डीयू),
स. एल-40012/92/2000-आईएमए (डीयू),
स. एल-40012/93/2000-आईएमए (डीयू),
स. एल-40012/53/2000-आईएमए (डीयू),
स. एल-40012/213/2000-आईएमए (डीयू),
स. एल-40012/214/2000-आईएमए (डीयू),
स. एल-40012/169/2000-आईएमए (डीयू),
स. एल-40012/280/2000-आईएमए (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 24th August, 2001

S.O. 2403.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workmen, which was received by the Central Government on 24-8-2001.

[No. L-40012/90/2000-IR(DU),
No. L-40012/91/2000-IR(DU),
No. L-40012/88/2000-IR(DU),
No. L-40012/92/2000-IR(DU),
No. L-40012/93/2000-IR(DU),
No. L-40012/53/2000-IR(DU),
No. L-40012/213/2000-IR(DU),
No. L-40012/214/2000-IR(DU),
No. L-40012/169/2000-IR(DU),
No. L-40012/280/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Monday, the 30th July, 2001

PRESENT :

K. KARTHIKEYAN, Presiding Officer.

Industrial Dispute Nos. 12, 13, 14, 17, 18, 20, 47,
48, 51 and 55/2000

[In the matter of the disputes for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workmen and the Management of the General Manager, Telecommunications, Kancheepuram District Chennai.]

I Party/Workmn:

1. S. Janakiraman	12/2000
2. I. Mohanraj	13/2000
3. T. Karnan	14/2000
4. S. Kuppen	17/2000
5. G. Kalyanasundaram	18/2000
6. G. Ravichandran	20/2000
7. M. Thiagarajan	47/2000
8. S. Gajendran	48/2000
9. V. Gajendran	51/2000
10. C. Devarajan	55/2000

AND

II Party/Management:

The General Manager, Telecommunication, Kancheepuram Distt.	12, 13, 14, 17, 18, 20, of 2000
The Divisional Engineer, Admn. O/o. General Manager, Telecom, Chengalpet SSA, Chennai.	47/2000
The Divisional Engineer, Telecom, Transmission Installation, Madurai.	48/2000
Telecom District Manager, Chennai MGR District, Chennai.	51/2000
The Chief General Manager, Telecom, Tamil Nadu Circle, Chennai.	55/2000

APPEARANCES :

For the Workmen Sri N. Ganasekar and
Smt Premavathy, Advocates.

For the Management : Sri R. Kannappan,
Government Additional Standing
Counsel

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned Industrial Disputes for adjudication vide Order No. L-40012/90/2000/IR(DU), L-40012/91/2000/IR(DU), L-40012/88/2000/IR(DU), L-40012/92/2000/IR(DU), L-40012/93/2000/IR(DU), L-40012/53/2000/IR(DU), L-40012/47/2000/IR(DU), L-40012/214/2000/IR(DU), L-40012/169/2000/IR(DU), L-40012/280/2000/IR(DU), dated 30-05-2000, 31-5-2000, 07-08-2000, 09-08-2000 and 29-08-2000 respectively.

On receipt of these references by this Tribunal, they were taken on file as ID Nos. 12, 13, 14, 17, 18, 20, 47, 48, 51 and 55/2000 respectively and notices were issued to both the parties to appear before this Tribunal and to file the respective Claim Statement and Counter Statement. Sri N. Ganasekar, advocate entered appearance on behalf of all the Petitioners and the Claim Statements of the Petitioners respectively were filed with the respective documents. The Government Additional Standing Counsel Sri

Sh. R. Kannalapan entered appearance and filed the Counter Statement and the xerox copies of the documents of the respective I Party/Management.

These matters came up before me for final hearing on 22-06-2001, upon perusing the Claim Statements, Counter Statements, the other material papers on record, upon perusing the oral and documentary evidence let in on either side and upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

COMMON AWARD

These industrial disputes have been raised by the I Party/Workmen (hereinafter referred to as Petitioners) against the II Party/Management, Telecom Department (hereinafter referred to as Respondent) disputing the action of the Respondent about their non-employment as unjustified and prayed for a relief of reinstatement in service with all other attendant benefits.

2. The common averments made in the Claim Statements of the Petitioners are briefly as follows :—

The Petitioners were engaged by the Respondent Telecom Department to perform the work of digging pits, erection of posts, laying cables and other allied works allotted to them as the regular employees of the department. The appointment and termination of the services of the Petitioners were not denied. The Petitioners have put in more than 240 days of continuous service as required under Section 25B of the Industrial Disputes Act, 1947. The Petitioners were not issued with any notice or not paid any compensation as required under Section 25F of the Industrial Disputes Act. Hence, the termination of the services of the petitioners by the Respondent, Telecom Department were illegal and in violation of the mandatory requirements of Section 25F of Industrial Disputes Act. Such orders of termination oral/written in the respective cases of the Petitioners are void, ab-initio and the Petitioners are deemed to be in continuous employment and are entitled to get reinstatement with back wages and arrears for the period during which they were kept out of employment illegally

3. The common averments in the Counter Statement of the Respondents are briefly as follows :—

The Petitioners were engaged by the Telecom Department to carry out digging, drawing wires and laying posts and for other casual works on daily rates wages basis. The Department used to engage the petitioners as and when there was work. There is a scheme for "Grant of Temporary Status to Casual Labourers" which was introduced in 1989. The essential condition for grant of temporary status is that (i) the casual labourer should have been engaged prior to 31-3-1985; (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-1989; and (iii) he should have put in 240 days continuous service in any one of the preceding years prior to 1-10-1989. The petitioners were directed to submit their respective service particulars for the purpose of conferment of temporary status and the Petitioners also furnished the service particulars. Since

the Petitioners did not fulfil all the aforesaid mandatory conditions, they could not be granted TSM status. The Respondent/Telecom Department scrutinized the service particulars produced by the Petitioners. The Muster Rolls which the Petitioner had mentioned in the service certificate as authority for engagement of work were verified and the names of the Petitioners were not found in those Muster Rolls. The original Muster Rolls will be produced before this Hon'ble Tribunal to establish the same. The Petitioner have produced false service certificates with a view to get the benefits like regularization etc. from the department to the detriment of other eligible applicants. It is evident from the service certificates produced by the Petitioners that they have not worked 240 days in any one year. As the Petitioners could not be given temporary status the pre-requisite for regularisation as Group D, the question of regularisation is ruled out in their cases. The Petitioners' services were terminated, since there was no work. The Petitioners have not come forward with clear hands. Therefore, the petitions have to be dismissed holding that they are not entitled for any relief.

4. When the matter was taken up for enquiry, a joint memo was filed by the counsel on either side to have a common enquiry for all these cases and to treat the evidence let in I.D. No. 12/2000 as common evidence for all the cases and the memo was recorded. On the side of the Petitioner/Workman all the Petitioners were examined as WW1 to WW10 and one common witness has been examined for the Respondent as MW1. Except for the Petitioners in I.D. Nos. 13 and 20/2000 the documents have been marked for the other Petitioners in these cases as Petitioners' exhibits. On the side of the Management, except in I.D. Nos. 20, 21 and 55/2000 in all other connected cases, the documents have been marked as Management Exhibits. On completion of evidence on either side in all these cases, the learned counsel on either side have advanced their common arguments.

5. The industrial disputes commonly referred to in the Schedule of references in I.D. Nos. 12, 47, 48 and 51/2000 are as follows :—

"Whether the non-employment of Sri Janakiraman, Sri N. Thiagarajan, Sri S. Gajendran and Sri V. Gajendran by the Telecom Department, the II Party/Management is legal and justified? If not, to what relief, the workmen are entitled?"

The industrial disputes commonly referred to in the Schedule of references in I.D. Nos. 13, 17, 18 and 55/2000 are as follows :—

"Whether the demand/claim of the workmen Sri P. Mohan Raj, Sri S. Kuppan, Sri C. Kalyanasundaram and C. Devarajan for reinstatement in the department of Telecom is legal and justified? If so/not to what relief the workmen are entitled?"

The industrial disputes commonly referred to in the Schedule of references in I.D. Nos. 14 and 20/2000 are as follows :—

"Whether the action of the General Manager, Telecom, Kancheepuram in terminating the

services of Sri T. Karnan, Sri G. Ravichandran, casual mazdoors is justified? If not, to what relief they are entitled?"

6. The common point for my consideration is—

"Whether the non-employment of the Petitioners by the Respondent/Department of Telecom is legal and justified? If not, to what relief, the Petitioners are entitled?"

Point.—It is the contention of the Petitioners in all these cases that they were engaged by the Telecom Department to perform the work of digging pits, erection of posts, laying cables and other allied works allotted to them as the regular employees of the Telecom Department. The Respondent has also admitted that these Petitioners were engaged as casual labour at daily rated wages basis during the end of December, 1994 in some cases and in the year 1995 and they worked till June, 1995. Thus, the Petitioners were engaged by the Telecom Department has not been disputed. The Petitioners also have not denied that they were engaged by the Respondent/Telecom Department as casual labour and they were paid at daily rated wages during their employment. It is the further contention of the Petitioners/Workmen that they have put in more than 240 days of continuous service as required under section 25B of I.D. Act, 1947. It is also their contention that the work performed by them is perennial in nature and continued to be available and all the Petitioners have spoken so, while giving evidence as WVs 1 to 10. The only Management witness for all these cases, MW1 has also deposed in his evidence that the work performed by the Petitioners continued to be available and is being performed by the labourers engaged by contractors. To prove the contention that the Petitioners have put in more than 240 days of continuous service in a year, they have filed some service certificates as their exhibits. But the persons who said to have issued those service certificates to these Petitioners have not been examined as witnesses for the Petitioners. The Respondent has contended that those service certificates are not genuine and they were created one. Though the Petitioners as WVs have given evidence that for their employment under the Respondent/Telecom Department, they were issued service certificates by the concerned officials, those particulars of their service they said to have put in the Respondent/Telecom Department have not been mentioned in the Claim Statement. It is the evidence of the Petitioner Sri S. Janakiraman in I.D. No. 12/2000 that he got the service certificate Ex. W1 series for the period he worked in the Respondent/Telecom Department. W1 series contain six service certificates said to have been issued by Sub-Divisional Officer, Telecom, Vaniyambadi. The concerned officer has not been examined before this Court to speak about the particulars therein. In those certificates, the period as well as the days under a particular Muster Roll No. and work order number said to have been worked by this Petitioner has been mentioned. Admittedly, these particulars have not been given in the Petitioner's Claim Statement. In the cross examination, Petitioner Janakiraman has admitted that he does not know whether the service particulars given by the Officer in the service certificates Ex. W1 series are correct or not. But he would deny the suggestion that Ex. W1

series contain bogus particulars. In the cross examination when a xerox copy of Muster Roll No. 12 was shown to him, he perused the same and admitted that his name is not available there. It is also the evidence of MW1 Mr. K. R. Balasubramaniam, working as Divisional Engineer (Adm.) in the office of the General Manager, Telecommunication, Chengalpattu, that on verification of records, all these casual labourers were found to be entered into the department as casual labourers in 1994 and 1995 and the service certificates produced by these petitioners are bogus. It is his further evidence that the xerox copy of the Muster Roll 13/4409 for the month of March, 1985 is Ex. M1. This has been shown as item No. 3 in the service certificate W1 Series (1). But the name of the Petitioner Sri Janakiraman does not find a place in that Muster Roll. Like that in W1 series (2) certificate, the petitioner Janakiraman was shown to have worked as casual labour in the month of September, 1988 under Muster Roll No. 06116/10. The xerox copy of that Muster Roll is Ex. M2. In that Muster Roll, the petitioner Janakiraman's name does not find a place. It is also his further evidence that Ex. M3 is the xerox copy of the Muster Roll No. 9/06114 for the period 24-4-1989 to 30-4-1989 which is shown as item No. 2 in the service certificate Ex. W1 Series (3). But the original Muster Roll does not contain the name of the Petitioner Sri Janakiraman. Like that Ex. M4 is the xerox copy of Muster Roll No. 18/06114 for the month of May, 1989 and the same has been shown in the service certificate W1 Series (3) to show that the petitioner Janakiraman had worked as a casual labour under that Muster Roll. But Janakiraman's name does not find a place in that Muster Roll. Ex. M5 is the xerox copy of the Muster Roll No. 13/08512 for the period 8-1-1990 to 31-1-1990, which has been shown as one of the items in W1 Series (3) service certificate. But the Petitioner Janakiraman's name does not find a place in that Muster Roll. Like that Ex. M6 and M7 are the xerox copies of two Muster Rolls 20863/90 and 11 and in those Muster Rolls which are mentioned in Ex. W1 series (3) service certificates the Petitioner Janakiraman's name does not find a place. While marking these xerox copy of these Muster Rolls, he had brought the original Muster Rolls to the Court to show that they are the correct xerox copies of the original Muster Rolls. Like that in all the Muster Rolls, the xerox copies of the same are marked as Ex. M8 to M15, the name of the petitioner Janakiraman does not find a place, though in the service certificate Ex. W1 Series he has shown to have been worked in the Respondent Telecom Department under the said Muster Rolls. By this, the Respondent Management, Telecom Department has demonstrated in the Court, that the particulars contained in the service certificates of the Petitioner Janakiraman as W1 series, are false and those certificates are bogus certificates. This petitioner has raised his claim or demand for reinstatement in service in the Telecom Department on the ground that he had worked in the Telecom Department continuously for a period for more than 240 days in a year. By this unimpeaching evidence let in by the Management, it is clearly proved that the service certificate produced by the petitioner Janakiraman as W1 series are not genuine but they are proved to be bogus. Further these certificates have not been proved as genuine by examining the

officer, who said to have issued those certificates as a witness for the workman.

7. The petitioner in I.D. 13/2000, P. Mohanraj has not filed any document in support of his contention that he worked for a total number of 1118 days in the Respondent Telecom Department as casual mazdoor. Though in his evidence he has stated that he joined as casual mazdoor in the Telecom Department on 1-5-84 and worked in Vellore Sub-Divisional Office, Telecommunication Department from 15-4-89 to 31-7-91 and at Sub Divisional Office at Thiruvallur 17-1-95 to 25-6-95 he has not produced any documents in support of the same. Further he has not given such particulars in his Claim Statement. He has admitted in the cross examination, on seeing the original Muster Roll No. 04940 for Work Order No. A6/14 and A6/11 for the month of August, 1989 and April, 1989 that his name does not find a place in those Muster Rolls. Like that in the cross examination on perusing the original M.R. produced before him, he has admitted that his name does not find a place there and they have been marked as Ex. M series. So, by these documents it has been demonstrated by the Respondent/Management that the workman Sri P. Mohanraj had not worked in the Telecom Department for the period he claimed in his oral evidence. The Petitioner in I.D. No. 14/2000 Sri T. Karnan, Sri S. Kuppan, the Petitioner in I.D. No. 17/2000, C. Kalyanasundaram, the petitioner in I.D. 18/2000 Sri G. Ravichandran, the petitioner in I.D. No. 20/2000, Sri N. Thiagarajan, the petitioner in I.D. No. 47/2000, Sri S. Gajendran, the petitioner in I.D. No. 48/2000, Sri V. Gajendran, the petitioner in I.D. No. 51/2000 and Sri C. Deva-
rajan, the petitioner in I.D. No. 55/2000, though they have stated in the Chief Examination that they have been issued service certificates for the period they worked in the Respondent/Telecom Department and they have marked those service certificates as Exhibits on their side, none of the officer, who said to have issued those service certificates to them have been examined on their side as witness to prove those service certificates. On the other hand, all of them have categorically admitted in the cross examination on perusing the original Muster Rolls which have been mentioned in their service certificates that their names are not available in those Muster Rolls. From these admissions of these Petitioners in the cross examination it shows that the service certificates they have pressed into service in their respective cases as a basis for their claim are not genuine but bogus. MW1 as a common witness for the management in all these cases has also clearly deposed that all these petitioners have worked in the Telecom Department as casual labourers and whenever there is need they used to engage these people as casual labourers to assist the departmental staff like line man and S.I. for attending the work of erecting poles and drawing wires as departmental work. It is also his evidence that no order of appointment or order of termination were issued to these casual labourers by the department and they have also not issued any transfer orders to these casual labourers and they were paid on daily wages basis on completion of their work. It is his further evidence that for payments made to these casual labourers towards wages, they used to get stamped receipt from them and they used to maintain Muster Rolls and for a casual labour worked under

a particular Muster Roll they used to pay him wages only under the Muster Roll. In support of his evidence, documents as xerox copies of those Muster Rolls have been filed in these cases as Management exhibits. Nothing has been elicited in the cross examination from MW1 to disprove the contention of the Respondent/Management in these cases and to discredit his evidence in chief.

8. From both oral and documentary evidence of either sides available in these cases, it is seen that these petitioners have not worked from 1984 as casual labourers, but they were engaged as casual labour at daily rates wages basis during the end of December in some cases and in the year 1995. The Petitioners have admitted in their evidence that they have worked as casual labourers in the respondent Telecom Department by assisting the regular workmen of the department. From the evidence available in these cases it is seen that the Petitioners have worked less than 240 days and the Petitioners in I.D. Nos. 12, 13, 14, 18 and 47 were not even worked 100 days. Hence the contention of the Petitioners that they have worked continuously for more than 240 days in the respondent Telecom Department has not been substantiated with acceptable evidence. Getting the signatures in the Muster Roll to show the workman was engaged and the Petitioners names are not available in the original Muster Rolls maintained by the department, though it is stated in the service certificates that they have worked under such Muster Rolls as casual labourers in the department are not disputed. So the service certificates produced by these petitioners in these cases are bogus.

9. It is the contention of the Petitioners that they have been stopped from service stating that there is no work, even though the work they were doing is still there and is being attended by casual labourers like them and that they have stopped from service as there is no work is false. But it is the contention of the Respondent that the work done by the Petitioners not available always and some times the break exceeds years together and that the Union of India, Ministry of Telecommunications decisions i.e. call for "Work Contract" if any work arise, cannot be said unfair labour practice. This has not been disputed by the other side. So it cannot be said that the Respondent is having powers to act his own, ignoring the decision of Union of India, Ministry of Telecommunications to reinstate these Petitioners in service holding that they are eligible for the Temporary status mazdoor scheme.

10. The learned counsel for the petitioners would argue that the termination of the services of the petitioners by the respondent without notice and without paying compensation to them required under section 25-F of I.D. Act is illegal and in violation of the provisions of law and hence the petitioners are entitled to reinstatement of service with back wages. This argument of the learned counsel for the petitioners cannot be accepted as correct because it is found that the petitioners have not proved that they put in continuous service of 240 days as required under section 25-B of the I.D. Act. So the non-employment of the petitioners by the respondent cannot be considered as a violation of the provisions of the act or it is illegal. Therefore it cannot be said as unjustified. Thus the point is answered accordingly.

11. In the result, an award is passed holding that the non employment of the petitioners by the respondent Telecom Department is legal and justified. Hence, the concerned workmen, the petitioners herein are not entitled to any relief. No cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th July, 2001.)

K. KARTHIKEYAN, Presiding Officer
I.D. No. 12/2000

Witnesses Examined:

For the I Party/Workmen:

WW1—Shri S. Janakiraman

For the II Party/Management :

MW1 Shri K. R. Balasubramaniam.

DOCUMENTS MARKED:

For I Party/Workman:

Ex. No. Date with Description

W1 Series Nil—Xerox copy of the service particulars Of the Petitioners.

W2 Nil.—Original M.R. Note Book of the Petitioner.

W3 11-3-95—Transfer order of S/Shri S. Janakiraman and T. Karnan, Casual Mazdoors from the O/o. SDE, Kancheepuram to Chennai. (Original).

W4 15-5-95—Termination order of S/Sri S. Janakiraman and T. Karnan, Casual Mazdoors from the O/o. SDE (wireless), Madras.

W5 17-11-89—Xerox copy of the letter from Chief General Manager, Telecom, Tamil Nadu Circle to The General Manager, Telecom, Madras Regarding grant of temporary status and Regularization scheme for casual labourers.

W6 9-12-98—Xerox copy of the Counter filed by the Management before Regional Labour Commissioner (Central) in IDA No. MB/86/98.

For the II Party/Management :

M1 Mar. 95—Xerox copy of Muster Roll No. 4409/13.

M2 Sept. 88—Xerox copy of the Muster Roll No. 06116/10.

M3 April, 89—Xerox copy of the Muster Roll No. 06114/9.

M4 May, 89—Xerox copy of the Muster Roll No. 06114/18.

M5 Jan. 1990—Xerox copy of the Muster Roll No. 08512/13.

M6 Jan. 1991—Xerox copy of the Muster Roll No. 20863/14.

M7 Jan. 1991—Xerox copy of the Muster Roll No. 20863/19

M8 July, 1991—Xerox copy of the Muster Roll No. 20866/9.

M9 Sept. 1991—Xerox copy of the Muster Roll No. 20867/14.

M10 Nov. 1991—Xerox copy of the Muster Roll No. 20868/02

M11 June, 1992—Xerox copy of the Muster Roll No. 04031/20.

M12 Aug. 1992 —Xerox copy of the Muster Roll No. 2/24.

M13 Jan. 1993—Xerox copy of the Muster Roll No. 5/4.

M14 March, 93—Xerox copy of the Muster Roll No. 5/10.

M15 April, 93—Xerox copy of the Muster Roll No. 5/11.

I.D. No. 13/2000

Witnesses Examined:

For the I Party/Workmen:

WW1—Shri P. Mohanraj.

For the II Party/Management:

MW1—Shri K. R. Balasubramaniam (Common evidence).

DOCUMENTS MARKED:

For I Party/Workman . Nil.

For the II Party/Management :

M1 Dec. 94—Xerox copy of Muster Roll No. 04776.

M2 Aug. 86—Xerox copy of the Muster Roll No. 04940.

M3 series (1) Nil—Xerox copy of the Muster Roll No. 4/4051.

M3 series (2) Nil—Xerox copy of the Muster Roll No. 8/4051.

M4 series (2) May, 91 Xerox copy of the Muster Roll No. 16/20931.

M4 series (4) June, 91 Xerox copy of the Muster Roll No. 19/20931.

M4 series (3) June, 91—Xerox copy of the Muster Roll No. 18/20931.

M4 series (4) June, 91—Xerox copy of the Muster Roll No. 19/20931

I.D. No. 14/2000

Witnesses Examined:

For the I Party/Workmen:

WW1—Shri T. Karnan.

For the II Party/Management . None.

DOCUMENTS MARKED :

For I Party/Workmen:

Ex. No. Date Description

W1 19-6-80—Record Sheet of the Petitioner (in original)

W2 11-3-95—Transfer order of S/Shri S. Janakiraman and T. Karnan, Casual Mazdoors from the O/o. SDE, Kancheepuram to Chennai, (Original).

W3 series (4) Nil—Service certificates of the Petitioner given By the Management.

W4 Nil—Original M. R. Note book of the Petitioner.

W5 20-6-95—Transfer order of the Petitioner issued by the S.D.E. (wireless) Madras to the Petitioner.

For the II Party/Management :

M1 Sept. 89—Xerox copy of Muster Roll No. 08508/11.

M2 Sept. 88—Xerox copy of the Muster Roll No. 06116/10.

M3 May, 90—Xerox copy of the Muster Roll No. 05808/22.

M4 March, 93—Xerox copy of the Muster Roll No. 21257/07.

M5 Apr. 1992—Xerox copy of the Muster Roll No. 21253/06.

M6 Feb. 1993—Xerox copy of the Muster Roll No. 28/3.

M7 Aug. 1993—Xerox copy of the Muster Roll No. 29/11.

M8 Oct. 1993—Xerox copy of the Muster Roll No. 29/20.

M9 Oct. 1993—Xerox copy of the Muster Roll No. 29/19.

M10 May, 1989—Xerox copy of the Muster Roll No. 4440/24.

M11 March, 95—Xerox copy of the Muster Roll No. 04769/13.

I.D. No. 17/2000

Witnesses Examined :

For the I Party/Workmen :

WW1—Shri S. Kuppan.

For the II Party/Management :

MW1 Shri K. R. Balasubramaniam (Common evidence).

Documents Marked :

For I Party/Workman :

Ex. No.	Date	Description
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W1	12-6-79	Record sheet of the Petitioner issued by the P. U. Middle school at Sayanavaram.
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W2	series (7)	Nil—Service certificates of the Petitioner issued by Sub Division Officer, Kancheepuram.
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W3	May '94 to June, 95	M R. Note book of the Petitioner.
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For the II Party/Management :

M1 Mar. 85—Xerox copy of Muster Roll No. 05850/2.

M2 Aug. 89—Xerox copy of the Muster Roll No. 08506/11.

M3 Sept. 89—Xerox copy of the Muster Roll No. 08507/4.

M4 Sept. 89—Xerox copy of the Muster Roll No. 08507/11.

M5 Oct. 89—Xerox copy of the Muster Roll No. 08507/24.

M6 Nov. 89—Xerox copy of the Muster Roll No. 08508/17.

I. D. No. 18/2000

Witnesses Examined :

For the I Party/Workmen :

WW1—Shri C. Kalyanasundaram.

For the II Party/Management :

MW1 Shri K. R. Balasubramaniam (Common evidence).

Documents Marked :

For I Party/Workman :

Ex. No.	Date	Description
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W1	series (5)	Original Service Certificate of the Petitioner issued by the Management.
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For the II Party/Management :

M1 Nil—Xerox copy of Muster Roll No. 9/4408.

M2 Nil—Xerox copy of the Muster Roll No. 17/4408.

M3 Nil—Xerox copy of the Muster Roll No. 8507/11.

M4 Nil—Xerox copy of the Muster Roll No. 5808/22.

M5 Nil—Xerox copy of the Muster Roll No. 21257/07.

M6 Nil—Xerox copy of the Muster Roll No. 21253/06.

M7 Nil—Xerox copy of the Muster Roll No. 29/20.

I. D. No. 20/2000

Witnesses Examined :

For the I Party/Workmen :

WW1—Shri G. Ravichandran.

For the II Party/Management :

MW1 Shri K. R. Balasubramaniam (Common evidence).

Documents Marked :

For I Party/Workman :—Nil.

For the II Party/Management :—Nil.

I. D. No. 47/2000

Witnesses Examined :

For the I Party/Workmen :

WW1—Shri M. Thiagarajan.

For the II Party/Management : ~~None~~.

Documents Marked :

For the I Party/Workmen :

Ex. No.	Date	Description
W1 series (3)		Original Service Certificate of the Petitioner issued by the Management.
W2 Nil		Original M. R. Note Book of the Petitioner.

For the II Party/Management :

M1 series (44) Nil—Xerox copy of Muster Rolls.

I. D. No. 48/2000

Witnesses Examined :

For the I Party/Workmen :

WW1—Shri S. Gajendran.

For the II Party/Management :

MW1 Shri K. R. Balasubramaniam (Common evidence).

Documents Marked :

For I Party/Workman :

Ex. No.	Date	Description
W1	15-12-84	Original letter from Assistant Engineer, Telecom to the Employment Officer, Kancheepuram.
W2	Nil	Original Service Certificates of the Petitioner issued by the Management.
W3	Nil	Original Service certificates of the Petitioner issued by Junior Telecom Officer, Tiruttani.
W4	Nil	Original identity card of the Petitioner.
W5	1992 to 1996	Personal records of employment on Muster Roll of the Petitioner.

For the II Party/Management :

- M1 Nil—Xerox copy of the Employment Exchange registration card of the Petitioner.
- M2 March—Xerox copy of the Muster Roll No. 07340/20.
- M3 June, 86—Xerox copy of the Muster Roll No. 19014/4.
- M4 July, 86—Xerox copy of the Muster Roll No. 06844/8.

I. D. No. 51/2000

Witnesses Examined :

For the I Party/Workmen :

WW1—Shri V. Gajendran.

For the II Party/Management :

MW1 Shri K. R. Balasubramaniam (Common evidence).

Documents Marked :

For I Party/Workmen :

Ex. No.	Date	Description
W1 series (6)	Nil	Xerox copy of the Service Certificates of the Petitioner issued by the Management.
W2 Nil		Original M. R. Note Book of the Petitioner.

For the II Party/Management : Nil.

I. D. No. 55/2000

Witnesses Examined :

For the I Party/Workmen :

WW1—Shri C. Devarajan.

For the II Party/Management :

MW1 Shri K. R. Balasubramaniam (Common evidence).

Documents Marked :

For I Party/Workman :

Ex. No.	Date	Description
W1 Nil		Original M. R. Note Book of the Petitioner.
W2 Series (4)	Nil	Original Service Certificate of the Petitioner issued by the SDO, Ranipet & Ors.
W3 Nil		Original Identity Card of the Petitioner.
W4 Nil		Personal records of employment of the Petitioner in the Muster Roll.

For the II Party/Management :

Presiding Officer

नई दिल्ली, 24 अगस्त, 2001

का.ग्रा 2404 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्किवोलॉजिकल सर्वे ऑफ इंडिया के प्रबंधन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बेंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2001 को प्राप्त हुआ था।

[सं एल-42012/188/93-आईएमए (डीयू)]

कुलदीप राय वर्मा, हेड ऑफ अधिकारी

New Delhi, the 24th August, 2001

S.O. 2404.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of

1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Archaeological Survey of India and their workman which was received by the Central Government on 24-8-2001.

[No. L-42012/188/93-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT

"SHRAM SADAN",

III MAIN, III CORSS, II PHASE TUMKUR
ROAD, YESWANTHPUR, BANGALORE

Dated : 30th July, 2001

PRESENT :

HON'BLE SHRI V. N. KULKARNI,

B.COM, LLB, PRESIDING OFFICER

CGIT-CUM-LABOUR COURT,

BANGALORE

C.R. No. 60/94

I PARTY :

Sri Hullappa Bheemappa Madar,

C/o, Rev. Fr. Joseph,

Rodrigues,

Catholic Church,

Guledgud-587203.

Bijapur,

Karnataka.

II PARTY :

1. The Assistant Secretary,

Archaeological Survey of India,

Pattadakal 587211, Bijapur Distt.

Karnataka.

2. The Foreman (Horticulture),

Archaeological Survey of India,

Pattadakal-587211,

Bijapur,

Karnataka.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial

Disputes Act, 1947 has referred this dispute vide order No. L-42012/188/93-IR(DU) dated 13-7-1994 for adjudication on the following schedule :—

SCHEDULE

"Whether the action of Management of Archaeological Survey of India, Pattadakal, Bijapur in terminating the Services of Shri Hullappa Bheemappa Madar, Ex-Workman is legal and justified ? If not, what relief the Workman concerned is entitled to?"

2. The first party was appointed as Casual Labourer with the second party. He was refused work and was terminated. Therefore Industrial dispute was raised.

3. Parties appeared and filed Claim Statement and Counter respectively. The case of the first party workman in brief is as under :—

4. According to the first party he was appointed as Casual Labourer in the department of Archaeological Survey of India, Pattadakal w.e.f. 14-12-1976 by the Conservation assistant under the establishment of Superintending Archaeologist Bangalore Circle. He has worked honestly from 14-12-1976 to June 1991 and again he worked in the year 1993 and he was signing on the Muster Roll.

5. He worked along with 3 others namely S/Shri Basappa Mahadevappa Totager, Andanappa Basalingappa Shantageri and Shankarappa Mallappa Hoogar and the first party was not considered for regular appointment. The first party was appointed by the Employment Officer, Employment Exchange, Bagalkot. In para 6 he has given details for having worked with the Second Party. The first party was not regularised though many requests were made. The first party belongs to Schedule Caste. The action of the management is not correct. The first party has prayed to pass award in his favour.

6. The case of the Second Party in brief is as follows :

7. It is true that the first party was appointed as Casual Labourer in the department. It is also admitted in the counter that he worked in different branches.

8. It is the further case of the management that Basappa Mahadevappa Totager, Andanappa Basalingappa Satageri, Shankarappa Mallappa Hoogar were all working as Casual

Labourers continuously from 1976 till their absorption on the regular post as "Garden Attendants" in 1985. But the petitioner has left the work on his own accord in August 1984 and he was not eligible to be absorbed. It is true that the first party was engaged through the employment exchange.

9. It is the further case of the management that the first party worked under the Conservation Assistant, Badami before leaving the work in August 1984 and therefore, the claim is not correct. Details of working are given in the Counter Statement.

10. The main contention of the Second Party is that the first party left the work on his own accord due to severe stomach pain and did not intimate about his illness. All other allegations are not correct. The Second Party did not exercise any kind of undue influence whatsoever on Sarvasri Maliyappa, Basappa, S. K. Kudachi and Shankarappa for their statement on behalf of the first party. The action of the management is correct. The petitioner was never retrenched or removed from the work. The management for these reasons has prayed to reject the reference.

11. It is seen from the records that the management examined one witness MW1 and against this workman got examined himself as WW1 and documents were marked for both sides.

12. I have heard both sides. We have the documents, Ex. W1 to W4 filed, by the first party. With these documents it is clear that first party was sponsored by Employment Exchange. Ex. W1 is the certificate given by Foreman, Horticulture Department, Pattadkal stating that the first party was working as Casual Labour since January 1982 to 31-5-1986. With this it is clear that the first party has continuously worked. The other two documents are the certificates of Hullappa Bhomappa.

13. Let us consider the evidence of MW1 and WW1. MW1 has also stated in his evidence that the first party has worked in the department from 1981 to 1984. He further says that he left the department in 1984 and never turned up. He further says that he started working with Conservative Department from 1989 to 1990. The first while leaving work in 1984 has not given any representation. He also says that during the year 1984, some of the casual labourers were

regularised and at that time he was not working in that department and after one year he approached for regularisation but by that time seniority list was already forwarded and therefore his case was not considered.

14. With this evidence things are clear to the effect that first party was appointed as casual worker and he was sponsored by employment exchange and he worked from 1981 to 1984. We have no quarrel with this state of affairs.

15. In the instant case the main contention of the Second Party is that after 1984 the first party never turned up for work and he started working in some other department. This is important because some of the workers were regularised in the year 1985 as per the evidence of MW1 and the evidence of MW1 is that at the time the first party was not working in this department. This evidence seems to be quite natural and nothing is made out from the cross examination of MW1 to discard his evidence.

16. In a situation like this burden is on the first party to prove that he has not left the work in the year 1984.

17. According to WW1 he says he worked from 1976 to 1981. He says in the year 1984 a seniority list was prepared and his name was included but he was not considered for regularisation as the officer working at that time was not in good terms along with him. Except few persons others were regularised. He says he has not abandoned the work at any point of time. He says he worked in Conservation Department from 1989 to 1993 and not 1991 as suggested.

18. Here it is important to note that MW1 has said that the first party left the work on account of serious stomach pain. For the reasons best known to the first party there is no suggestion. First party has not left the work on account of his ill health. The first party has stated in his cross-examination that he has not written any letter that he remained absent due to stomach ache. If at all the first party has left the work on account of stomach ache he could have given representation but nothing is on record.

19. In the instant case admittedly we have to place more importance on the oral evidence of the parties. MW1 was also not working at Aihole during 1984-85 and he said in his cross-examination that his evidence is on

the basis of records. His evidence that first party left the services is also based on the records.

20. Taking all this into consideration, I am of the opinion that the first party was appointed as Casual Worker and he worked continuously. In a situation like this ends of justice will meet if I direct to regularise him as per rules applicable then. Accordingly I proceed to pass the following order :

ORDER

Reference is partly allowed and the management is directed to regularise the first party if at that time of regularisation of others he was also working with the department and in case if he was not working and left the work, first party will not be entitled for any benefit. Accordingly reference is disposed off,

(Dictated to PA transcribed by her corrected and signed by me 30th July 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2405—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय पशु प्रजनन फार्म के प्रबंधन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2001 को प्राप्त हुआ था।

[सं. एल-42012/181/98-आईआर (डीयू)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 24th August, 2001

S.O. 2405.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Cattle Breeding Farm and their workman which was received by the Central Government on 24-8-2001.

[No. L-42012/181/98-IR(DU)]

KULDIP RAI VERMA, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

आदेश संख्या :—एल-42012/181/98-आईआर. (डीयू)
दिनांक 26-9-2000

प्रकरण संख्या :—सी.जी.आई.टी. 54/2000

लोरिक यादव पुत्र श्री केवल यादव माफें चंद्रमान यादव,
केन्द्रीय पशु प्रजनन फार्म, सूरतगढ़, पो. भगवानसर जिला
श्रीगंगानगर।

—प्रार्थी

बनाम

निदेशक, केन्द्रीय पशु प्रजनन फार्म (सी.सी.बी.एफ.) सूरतगढ़,
जिला श्रीगंगानगर।

—अप्रार्थी

उपस्थित :—

प्रार्थी की ओर से श्री जे.एम. यादव

अप्रार्थी की ओर से कोई नहीं।

पंचाट दिनांक 3-7-2001

पंचाट

केन्द्रीय सरकार के द्वारा निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है) की धारा 10 की उपधारा (1) के खण्ड-घ के प्रावधानों के अन्तर्गत उक्त आवेदन के जरिए न्यायनिर्णयन हेतु निर्देशित किया गया :—

"Whether the action of the management of Director, Central Cattle Breeding Farm, Suratgarh in terminating the services of Shri Lorrak Yadav w.e.f. 1-7-87 is legal and justified? If not, to what relief the workman is entitled?"

प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि उसकी नियुक्ति अप्रार्थी संस्थान में चौकीदार श्रमिक के स्थाई रिक्त पद पर दिनांक 1-6-83 को दैनिक वेतनभोगी के रूप में की गई थी जहां उसने दिनांक 30-6-87 तक निरन्तर कार्य किया। दिनांक 1-7-87 को अप्रार्थी ने मौखिक आदेश से उसकी सेवा समाप्त कर दी। सेवामुक्ति से पूर्व उसे न तो एक माह का नोटिस दिया गया न नोटिस की एवज में एक माह का वेतन न छंटनी का मुआवजा। सेवामुक्ति करने से पूर्व कोई बरिष्ठता सूची भी जारी नहीं की गई। अप्रार्थी के द्वारा "प्रथम आए आखिर जाए" सिद्धान्त का भी उल्लंघन किया गया। उसकी सेवामुक्ति करने के पश्चात् नए कर्मचारियों को नियुक्ति दी गई जबकि उसे पुनः नियोजन का अवसर नहीं दिया गया। सेवामुक्ति से व्यथित होकर उसने सहायक श्रम प्रायुक्त (केन्द्रीय), जयपुर के समक्ष दिनांक 25-9-87 को विवाद प्रस्तुत किया, जिस पर पक्षकारों को नोटिस जारी किए गए परन्तु उसका कोई नतीजा नहीं निकला। इस पर उसने पुनः दिनांक 26-3-95 को सेवामुक्ति से संबंधित विवाद उठाया, जिस पर असफल वार्ता प्रतिवेदन समझौता अधिकारी के द्वारा केन्द्रीय सरकार को प्रेषित किया गया। केन्द्रीय सरकार ने आदेश दिनांक 4-2-99 के द्वारा निर्देश न्याय निर्णयन हेतु प्रेषित करने से इंकार कर दिया जिससे व्यथित

होकर उसने उच्च न्यायालय, जोधपुर के समक्ष एक याचिका संख्या-1273/99 प्रस्तुत की जिस पर निर्देश प्रेषित करने के लिए आदेश दिया गया। इसके पश्चात् यह विवाद अधिकरण को न्यायनिर्णयन हेतु निर्देशित किया गया। यह उल्लेख किया गया कि प्रार्थी की सेवाएँ अधिनियम, 1947 की धारा 25-एफ, जी, एच व औद्योगिक विवाद (केन्द्रीय) नियम, 1957 (जिसे बाद में नियम, 1957 कहा गया है।) के नियम 77, 78 का उल्लंघन कर की गई। प्रार्थना की गई कि उसकी सेवाभूति का आदेश दिनांक 1-7-87 को अपास्त किया जाए व उसे पिछले समस्त लाभों सहित पुनः सेवा में स्थापित किया जाए।

अप्रार्थी की ओर से जवाब में उल्लेख किया गया कि अप्रार्थी संस्थान उद्योग की परिभाषा में नहीं आता। विपक्षी संस्थान भारत सरकार का विभाग है, जो कि कृषि मंत्रालय द्वारा संचालित होता है। विभाग का मुख्य कार्य पशु के प्रजनन व उन्नत नस्ल के व्यापारिक के साण्ड व बछड़े पैदा करना है, जिन्हें सरकारी रियायती दर पर ग्राम पंचायतों आदि को बितरण कर देश में व्यापारिक नस्ल बनाए रखना तथा दूध आदि की बड़ेतरी करना है। विपक्षी संस्थान का उद्देश्य लाभ प्राप्त करना नहीं है। प्रार्थी द्वारा प्रस्तुत क्लेम मिथाद बाहर है। क्लेम में यूनिटन ऑफ इण्डिया जो कि आवश्यक पक्षकार है, को पक्षकार नहीं बनाया गया है। क्लेम प्रार्थी की ओर से प्रस्तुत नहीं किया गया है व न कभी वह समझौता अधिकारी के समक्ष प्रस्तुत हुआ। प्रार्थी की ओर से समस्त कार्यवाही जसवीर सिंह यादव ने की, जो न्यायसंगत नहीं है। जसवीर सिंह यादव व खन्ना भान के पक्ष में प्रार्थी ने कोई अधिकरणगत भी नहीं दिया है, अतः प्रार्थी का काम निरस्तनीय है। प्रार्थी दैनिक मजदूरी के आधार पर विविष्ट कार्य के लिए सीजनल मजदूर के रूप में नियोजित किया गया था। उसकी नियुक्ति चौकीदार के पद पर नहीं हुई। कार्य समाप्ति पर प्रार्थी कार्य छोड़कर अन्यत्र कार्य करने चला जाता था। फार्म पर फसल कटाई का कार्य वर्ष में 30 दिन तक मुष्किल से चलता है। फसल कटाई का कार्य समाप्त होने पर बिहाड़ी मजदूर अन्यत्र कार्य करने चले जाते हैं। विभाग में रिक्त स्थाई पदों पर नियुक्ति के लिए निर्धारित प्रक्रिया बनी हुई है, जिसके अनुसार भारत सरकार के नियमों के अनुसार नियुक्ति की जाती है। प्रार्थी ने 240 दिन एक वर्ष में कभी कार्य नहीं किया। अप्रार्थी द्वारा प्रार्थी की कोई सेवाभूति नहीं की गई। सीजनल मजदूरों की विविष्टता सूची नहीं बनाई जाती, केवल मस्ट्रोल पर उपस्थिति दर्ज की जाती है। मस्ट्रोल भारत सरकार द्वारा बनाए गए नियमों के अनुसार तीन वर्ष के पश्चात् नष्ट कर दिए जाते हैं। प्रार्थी का यह कथन कि नये फार्मचारियों को नियुक्ति दी गई है, असत्य है। भारत सरकार कृषि मंत्रालय ने दैनिक वेतनभोगी व सीजनल मजदूरों की नियुक्ति पूर्ण रूप से बन्द कर दी है। प्रार्थी से केनि ठ कोई दैनिक सीजनल मजदूर संस्थान में कार्यगत नहीं है। कार्य छोड़ने के पश्चात् प्रार्थी कभी कार्य करने के लिए उपस्थित नहीं हुआ व प्रार्थी द्वारा अन्यत्र कार्य पर चले जाने

के कारण सहायक श्रम श्रवण ने फाउल दाखिल इफतोर कर दी।

पक्षकारों के अभिकरणों के आधार पर निम्नांकित विवाद बिन्दु बनाए गए

1. आया प्रार्थी ने विपक्षी संस्थान में दिनांक 1-6-83 से 1-7-87 तक निरन्तर कार्य किया?
2. आया विपक्षी संस्थान "उद्योग" की परिभाषा के अन्तर्गत नहीं आता?
3. आया क्लेम मिथाद बाहर है, यदि हां तो इसका प्रभाव?
4. आया यूनिटन ऑफ इण्डिया क्लेम में आवश्यक पक्षकार है?
5. आया जवाब की प्रारम्भिक आपत्तियों के खण्ड संख्या "द" में दिए गए कारणों से क्लेम निरस्तनीय है?
6. आया प्रार्थी को विपक्षी संस्थान में दैनिक मजदूरी के आधार पर विविष्ट कार्य के लिए सीजनल मजदूर के रूप में नियोजित किया गया था? यदि हां तो इसका प्रभाव?
7. आया भारत सरकार कृषि मंत्रालय ने सीजनल व दैनिक वेतन मजदूरों की अंती वर्ष 1990 से बन्द कर दी है? यदि हां तो इसका प्रभाव?
8. आया प्रार्थी की सेवा समाप्ति विपक्षी के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 25 एफ जी व औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम 77 का उल्लंघन कर की गई है?
9. प्रार्थी किस सहायता को प्राप्त करने का अधिकारी है?

प्रार्थी की ओर से साध्य मे स्वयं का शपथ-पत्र प्रस्तुत किया गया, जिस पर प्रतिपरीक्षा करने का अवसर विपक्षी के अधिवक्ता को दिया गया। प्रलेख्य साध्य में प्रति-लिपि नोटिस प्रवर्ण डब्ल्यू-1, प्रतिनिधि श्रमफल वार्ता, प्रतिवेदन प्रवर्ण डब्ल्यू-2, प्रतिनिधि प्रार्थन-पत्र प्रवर्ण डब्ल्यू-3 में 6, प्रति-लिपि आदेश प्रवर्ण डब्ल्यू-7, 8 व 9 प्रस्तुत किए। विपक्षी की ओर से दिनांक 11-5-2001 को कोई उपस्थित न होने के कारण व कोई साध्य प्रस्तुत न होने के कारण साध्य बन्द कर दी गई। इस प्रकार विपक्षी की ओर से कोई ना.य प्रस्तुत नहीं की गई।

बहुसंख्यी गई एवं पत्राश्रयों का प्रशनों का किया गया।

बनाए गए विवाद बिन्दुओं का विनिश्चय निम्न प्रकार किया जाता है:—

बिन्दु संख्या: 1—प्रार्थी ने शपथ-पत्र में उल्लेख किया है कि उसकी नियुक्ति अप्रार्थी संस्थान में श्रमिक के पद पर दैनिक वेतन भोगी कर्मचारी के रूप में की गई थी। उसने दिनांक 1-6-83 से 30-6-87 तक निरन्तर कार्य किया व प्रत्येक वर्ष में 240 दिन में अधिक कार्य किया। उसकी उपस्थिति प्रत्येक माह मस्ट्रोल में दर्ज की जाती थी। प्रतिपरीक्षा में उसने

कहा कि यह कौमीद्वार का भी कार्य करता था व अन्य कार्य भी करता था। फसल काटने का कार्य करने में इंकार किया। प्रार्थी के कथन के खण्डन में विपक्षी की ओर से कोई साक्ष्य प्रस्तुत नहीं की गई। अतः उसके कथन पर अविश्वास करने का कोई कारण प्रतीत नहीं होता। उसके कथन से प्रमाणित है कि उसने दिनांक 1-6-83 से 30-6-87 तक विपक्षी संस्थान में दैनिक वेतन को आधार पर श्रमिक के रूप में कार्य किया।

बिन्दु संख्या 2:— विपक्षी की ओर से इस बिन्दु के बारे में कोई साक्ष्य प्रस्तुत नहीं की गई अतः इस बिन्दु का विनिश्चय विपक्षी के विरुद्ध किया जाता है।

बिन्दु संख्या 3:— अधिनियम 1947 के अन्तर्गत विवाद उठाने हेतु कोई समय सीमा निश्चित नहीं है। अतः यह नहीं कहा जा सकता कि प्रार्थी द्वारा प्रस्तुत किया गया क्लेम अवधि बाधित है। परन्तु यह उल्लेख करना उचित होगा कि विवाद सेवा समाप्ति दिनांक 1-7-87 के बारे में उठाया गया है जब कि प्रार्थी के द्वारा दिनांक 26-3-95 को समझौता अधिकारी के समक्ष विवाद उठाए जाने व केंद्रीय सरकार के द्वारा विवाद न्यायनिर्णय हेतु निर्देशित किए जाने से इंकार किए जाने पर माननीय उच्च न्यायालय में प्रार्थी के द्वारा याचिका प्रस्तुत किए जाने व याचिका में विवाद न्यायनिर्णय हेतु निर्देशित किए जाने को प्रेषित किए जाने का आदेश दिए जाने पर प्रेषित किया गया है। इससे पूर्व भी प्रार्थी के द्वारा सन् 1987 में समझौता अधिकारी के समक्ष विवाद उठाया गया था जैसा कि प्रतिलिपि नोटिस प्रदर्शक डब्ल्यू-1 से प्रकट होता है। परन्तु ऐसा प्रतीत होता है कि उक्त निर्देश पर कार्यवाही इसलिए नहीं हुई कि प्रार्थी समझौता वार्ता के लिए समझौता अधिकारी के समक्ष उपस्थित नहीं हुआ अन्यथा उक्त आवेदन पर कार्यवाही अवश्य होती। प्रार्थी स्वयं ने स्वीकार किया है कि सन् 1987 के बाद वह घर चला गया था व उसके चोट लग गई थी एवं उसका अंगूठा कट गया था। सन् 1987 के पश्चात् सन् 1995 तक प्रार्थी के द्वारा विवाद के बारे में कोई कार्यवाही नहीं करने का कोई सन्तोषजनक कारण नहीं है। इसका क्या प्रभाव होगा इस पर बिन्दु संख्या-9 के अन्तर्गत विचार किया जाएगा।

बिन्दु संख्या 4:— प्रार्थी का नियोजक अर्थात् संस्थान है ऐसी दशा में यूनियन बैंक ऑफ इंडिया को क्लेम में आवश्यक पक्षकार होना नहीं कहा जा सकता।

बिन्दु संख्या 5:— विवाद प्रार्थी की सेवा समाप्ति के बारे में है। क्लेम प्रार्थी के द्वारा हस्ताक्षरित है व प्रार्थी के द्वारा श्री जसवीर सिंह यादव, अधिवक्ता के पक्ष में वकालतनामा निष्पादित किया गया है, जो अभिलेख पर है। ऐसी भी कोई साक्ष्य विपक्षी के द्वारा प्रस्तुत नहीं की गई कि प्रार्थी के द्वारा समझौता अधिकारी के समक्ष कोई कार्यवाही नहीं की गई। अतः प्रारम्भिक आपत्तियों के खंड संख्या-2 में उठाई गई आपत्तियां निराधार हैं।

बिन्दु संख्या 6:— इस बारे में कोई विवाद नहीं है कि प्रार्थी को दैनिक मजदूरी पर कार्य पर रखा गया था। विपक्षी की ओर से ऐसी कोई साक्ष्य प्रस्तुत नहीं की गई कि उसे सीजनल मजदूर के रूप में विशिष्ट कार्य हेतु नियोजित

किया गया था। अतः यह प्रमाणित नहीं है कि प्रार्थी को सीजनल मजदूरी के रूप में विशिष्ट कार्य हेतु नियोजित किया गया था।

बिन्दु संख्या 7:— विपक्षी की ओर से इस बिन्दु के बारे में कोई साक्ष्य प्रस्तुत नहीं की गई अतः इस बिन्दु का विनिश्चय विपक्षी के विरुद्ध किया जाता है।

बिन्दु संख्या 8:— प्रार्थी के द्वारा विपक्षी संस्थान में 1-6-83 से 30-6-87 तक लगातार कार्य करना प्रमाणित है। विपक्षी की ओर से इस बारे में कोई साक्ष्य प्रस्तुत नहीं की गई कि प्रार्थी स्वयं कार्य छोड़कर चला गया। इसके विपरीत प्रार्थी का कथन है कि मौखिक आदेश दिनांक 1-7-87 के द्वारा उसकी सेवा समाप्त कर दी गई। सेवा समाप्ति के बारे में उसने सन 1987 में समझौता अधिकारी के समक्ष विवाद उठाया था, अतः प्रार्थी स्वयं कार्य छोड़कर चला गया होता तो वह कथंकर सेवा समाप्ति के बारे में विवाद उठाता। अतः यह प्रमाणित नहीं होता कि प्रार्थी स्वयं कार्य छोड़कर चला गया। यह विवादित नहीं है कि विपक्षी ने प्रार्थी की सेवा समाप्ति से पूर्व अधिनियम, 1947 की धारा 25-एफ के प्रावधानों के अन्तर्गत न तो उसे एक माह का नोटिस दिया व न एक माह का वेतन व न छंटनी का मुआवजा। यह भी विवादित नहीं है कि सेवा समाप्ति के समय नियम, 1957 के नियम 77 के प्रावधानों के अन्तर्गत कोई वरिष्ठता सूची का प्रकाशन भी नहीं किया गया। इस प्रकार अधिनियम, 1947 की धारा 25-एफ व नियम, 1957 के नियम 77 का उल्लंघन कर प्रार्थी की सेवा समाप्ति किया जाना प्रमाणित है। प्रार्थी का यह भी कथन है कि विपक्षी संस्थान में उससे कनिष्ठ श्रमिक अकलू कार्यरत है। यह उल्लेख करना उचित होगा कि प्रार्थी ने क्लेम में ऐसा उल्लेख नहीं किया है कि उससे कनिष्ठ अकलू विपक्षी संस्थान में कार्यरत है। ऐसा भी उल्लेख नहीं किया गया कि अकलू को नियुक्ति किस वर्ष में की गई। अतः 9-वर्त प्रतिवेदन में भी ऐसा उल्लेख नहीं है कि प्रार्थी ने कनिष्ठ व्यक्ति अर्थात् संस्थान में कार्यरत है। अकलू के पिता का नाम अयरा वह कहां का निवासी है यह भी उल्लेखित नहीं है? इस प्रकार प्रार्थी का यह कथन कि अकलू नाम का कनिष्ठ श्रमिक विपक्षी संस्थान में कार्यरत है बाद का विचार है जिस पर भरोसा नहीं किया जा सकता। अतः अधिनियम, 1947 की धारा 25-जी का उल्लंघन विपक्षी द्वारा किया जाना प्रमाणित नहीं है।

बिन्दु संख्या 9:— विपक्षी के द्वारा प्रार्थी की सेवा समाप्ति अधिनियम, 1947 की धारा 25-एफ एवं नियम 1957 के नियम 77 का उल्लंघन किए जाने से उसकी सेवा समाप्ति अवैध व अनुचित पाई जाती है। प्रार्थी के द्वारा डब्ल्यू. एल. आर. 1991 (एस) राजस्थान 66 द जनरल मैनेजर नार्दन रेलवे बनाम केंद्रीय औद्योगिक अधिकरण, जयपुर व डब्ल्यू. एल. आर. 1991 (एस) राजस्थान 139 माधोशंकर दवे बनाम स्टेट आफ राजस्थान न्याय दृष्टांत वेरी से विवाद उठाए जाने के बारे में प्रस्तुत किए गए। द जनरल मैनेजर नार्दन

रेलवे बनाम केन्द्रीय औद्योगिक अधिकरण के मामले में श्रमिक की सेवा समाप्ति दिनांक 30-12-1979 के बारे में विवाद दिनांक 6-9-83 को उठाया गया था। श्रमिक की सेवा समाप्ति अवधि पाई गई। उसे पुनः नियुक्ति व पिछली आधी मजदूरी की सहायता दी गई। माधोशंकर बवे बनाम स्टेट आफ राजस्थान के मामले में याची के द्वारा विवाद के बारे में याचिका 2 वर्ष 2 माह पश्चात् प्रस्तुत की गई थी। याची की सेवा समाप्ति अवधि पाई गई थी। उसे पुनः नियुक्ति व सेवा की निरन्तरता का लाभ दिया गया। पिछली मजदूरी का लाभ नहीं दिया गया। प्रस्तुत मामले में जैसा उल्लेख किया जा चुका है प्रार्थी के द्वारा सेवा समाप्ति दिनांक 1-7-83 के बारे में सन् 1995 में समझौता अधिकारी के समक्ष विवाद उठाया गया, जिसका कोई संतोषजनक कारण नहीं बताया गया। 1999 डब्ल्यू. एल. सी. राजस्थान पेज 310 धर्मवीर सिंह बनाम स्टेट आफ राजस्थान व अन्य के मामले में कर्मकार की छंटनी अधिनियम, 1947 की धारा 25-एफ के उल्लंघन होने के आधार पर अवधि पाई गई थी। उसके द्वारा सेवा समाप्ति के बारे में 4 वर्ष तक कोई कार्यवाही नहीं की गई व न कोई संतोषजनक कारण देरी का बताया गया। यह अभिनिर्धारित किया गया कि पुनः नियुक्ति के स्थान पर क्षति-पूर्ति कर्मकार को दिलाया जाना अपेक्षित है। प्रस्तुत मामले में तो विवाद और भी देरी से उठाया गया है। ऐसी परिस्थिति में प्रार्थी की सहायता के रूप में क्षतिपूर्ति विलाया जाना ही न्यायसंगत प्रतीत होता है। प्रार्थी बत्तीर क्षतिपूर्ति के 20,000 रुपये विपक्षी संस्थान से प्राप्त करने का अधिकारी होगा। विपक्षी उक्त राशि प्रार्थी को पंचाट के प्रकाशित होने के दो माह की अवधि में अदायगी करेगा, उक्त राशि की अदायगी प्रार्थी को न होने पर प्रार्थी उक्त राशि पर 10 प्रतिशत की दर से व्याज प्राप्त करने का अधिकारी होगा।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जावे।

ह.

पीठासीन अधिकारी

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2406.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेंट्रल तम्बाकू रिसर्च इंस्टिट्यूट के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-8-2001 को प्राप्त हुआ था।

[सं. एल-42011/68/95-आईआर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 24th August, 2001

S.O. 2406.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Tobacco Research Institute and their workman, which was received by the Central Government on 24-8-2001.

[No. L-42011/68/95-IR(DU)]

KULDIP RAI VERMA, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, "SHRAM SADAN", III MAIN,
III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE

Dated, 13th August, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LL.B.,
Presiding Officer,
CGIT-cum-Labour Court,
Bangalore.

C.R. No. 174/97

I PARTY

The President,
CTRI Workers Union,
714, Lalbon Mohalla Hunsur-571105,
Mysore District.
(Advocate—Shri A. R. Holla)

II PARTY

The Director,
Central Tobacco Research
Institute,
Rajamandry-533 105,
Andhra Pradesh.
(Advocate—Shri S. V. Sastry)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-42011/68/95-IR(DU) dated 26th August, 1996 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of Central Tobacco Research Institute, Hunsur to regularise the services of the casual workers with less than 240 days of service in a year by including the day of break in service with their actual days of work is justified ?”

2. The first party workmen were working with the Second Party Management. They were not regularised

so on behalf of them the President, CTRI Workmen Union has raised this industrial dispute and the same is referred.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party workmen is as under :

5. There are 56 workmen in this dispute. It is their case that the Central Tobacco Research Institute previously was under the control of Ministry of Food and Agriculture and now under Indian Council of Agricultural Research and the workmen have been working at the Central Tobacco Research Institute Research Station, Hunsur. The work is of a regular nature. Other subordinate Offices are located at different places as shown in para 3 of the Claim Statement.

6. It is the further case of the workmen that they had been engaged continuously throughout the year till 1987 as peons, watch and ward staff, attenders in libraries and glass houses, in care of draft animals and cattle sheds, sweeping, field works such as weeding, harvesting, sowing etc. The workmen are being engaged from April to October every year during the tobacco season and they were given employment throughout the year prior to 1987, as maize and vegetables were cultivated, after tobacco crop.

7. It is the further case of the workmen that the second party stopped inter crop cultivation of wheat, jowar, ragi, paddy etc. with an intention to deprive the workmen the continuous employment throughout the year. The action of the management is not correct. The management retained these workmen on daily wages basis without regularising their services.

8. It is the further case of the workmen that they were forced to work below 240 days in a year with an intention to deprive them the continuity of service and consequent lawful benefits. The Second Party categorised these workmen as Group "D" and E&E staff and Casual Workers and by conferring temporary status on 14 workmen with effect from 1-9-1993 and giving E&E status for 8 more workmen prior to 1st September, 1993 as stated in para 4 of the Claim Statement. They are paid a daily wages of Rs. 38 w.e.f. 1-1-1994. They are given 2 holidays in a year and they are covered under the provisions of Employees Provident Fund and Miscellaneous Provisions Act. The details are given in the para 5 of the Claim Statement.

9. It is the further case of the workmen that the services of the workmen in Central Tobacco Research Institute Research Station, West Bengal which is another unit of Second Party are regularised in pursuance of the directions given by the Central Administrative Tribunal, Calcutta Bench in O.A. No. 855 of 1992 dated 8-9-1994 and in Bihar also the workmen got benefit. So also they got benefit at Dhanbad. The workmen for these reasons have prayed to pass award in their favour.

10. The case of the management in brief is as follows :

11. It is contended by the management that the union has no locus standi to raise the dispute on behalf of the workmen employed by the second party and there is no proper espousal. The names of 56 workmen are not correct.

12. The next contention of the management is that it is not an industry as stated in para 4 of the Counter.

13. It is the further case of the management that regularisation of services of eligible workmen at CTRI Research Station, Hunsur is done through the selection process as per the guidelines of ICAR and Government of India and hence no dispute on regularisation exists. It is also not correct to say that the workers with less than 240 days have been regularised. The procedure is described in detail in para 5 of the Counter. It is also said that the regularisation of temporary status employees is also done in strict accordance with the recruitment rules and instructions issued by Department of Personnel and Training, Government of India. Some of the workmen who fulfilled the qualifications were given temporary status in accordance with the guidelines. Wages are paid as per the Minimum Wage Act, 1948. The work is not of regular nature as contended by the workmen. The workmen are not engaged throughout the year. There were Writ Petition and the management has submitted in detail, explanation regarding the inability of the research station in providing continuous engagement of the workers throughout the year.

14. It is further contended that the High Court of Karnataka in its judgement observed that it would be inappropriate to ask the Research Station to maintain the labour force without utilising their services in any way being gainful and writ petitions were disposed off. The present list submitted by the first party also contains names of several outdoor labourers and the workmen are aware that they are engaged during the season only. Some of the workmen were granted temporary status and other benefits as explained in para 8 of the Counter.

15. In para 9 it is stated that there are two categories of casual workers and details are given about the working conditions and payment of wages.

16. It is the further case of the management that as per the orders passed in O.A. No. 855/92 by the Hon'ble Central Administrative Tribunal, Calcutta Bench a combined seniority list of all eligible temporary status casual workers to all the research stations including Central Tobacco Research Institute head quarters has already been prepared for their absorption as regular Group 'D' employees as and when vacancy arises and 10 among the temporary status labourers of the station find their names in the combined seniority list. The second party has also made necessary provisions in the 9th Five Year Plan proposal for creation of regular Group-D with the intention to regularise the temporary casual workers working at CTRI, Hunsur.

17. The management has further stated that the regularisation cannot be claimed as a matter of right on the basis of the completion of some years of service and the workmen are not entitled to the status of the permanent/regular workers including the pay. The management has prayed to reject the reference.

18. It is seen from the records that on behalf of the management Dr. M. M. Shanoy, Senior Scientist is examined and documents are marked. Against this WW1, Mr. P. A. Kumar, General Secretary of the Union and WW2 are examined for the first party.

19. I have heard both sides in detail. I have perused all the documents and read the citations given by the parties.

20. The Joint Secretary of the Union, WW1 has stated in his cross examination that he has no documents to show that the workers involved in this dispute are the members of CTRI WU. He further says that as per the constitution each member is expected to pay Rs. 6 per annum and he has not maintained any receipt book. He has also said that he has not produced documents in this regard. He has a resolution passed in the meeting authorising him to espouse the cause of this workman but he has not produced the same before the court. He has also said that the workmen in the Sr. No. of the Claim Statement from 1 to 4, 6, 8, 11, 18 to 20, 26, 29, 33, 39 to 41, 43, 48 and 53 have filed Writ Petitions and the said Writ Petitions are 10301 to 10334 of 90 and were disposed on 3-12-1990. Those Writ Petitions were for regularisation and points in dispute is also to regularise the services.

21. He further stated in his cross examination that according to him the nursery seasons will start preferably during the month of March and it will continue to May or June. The labourers will be engaged during nursery seasons. With this cross examination it is very much clear that the workmen were doing work during season only and they were not doing regular work.

22. Regarding the dispute on behalf of the workmen the union has not filed necessary documents though they are with the General Secretary. WW1 further says in his cross examination that the certificate Ex. W3 shows that tobacco cultivation is purely seasonal. In view of this cross examination of WW1 it is clear that these workmen were doing seasonal work. He also says in his cross examination that he is not having any document to show that these workmen have worked continuously for more than 240 days in a year.

23. Absolutely there is no material before us to say these workmen have worked more than 240 days in a year. WW1 says in his cross examination that temporary working scheme came into effect from 1-1-96. The union has not produced any document to prove that these workmen have worked continuously for 240 days.

24. In view of these facts the decision relied by the first party viz., (1985) 4 Supreme Court Cases 71 and (1985) 4 Supreme Court cases 201 will not help the first party at all.

25. I have read the above decisions carefully and I am of the opinion that the facts of this case are quite different from the facts of the above decision.

26. The management in the counter itself has stated that the regularisation of temporary status employees is done in strict accordance with the recruitment rules and instructions issued by department of Personnel and Training, Government of India. Six workers at Sl. No. 36, 37, 39, 40, 51 and 55 have fulfilled the requirement in accordance with the guidelines and they have been granted temporary status w.e.f. 1-9-93. It is also admitted in the Counter that besides these 6 another 16 casual labourers have also been granted temporary status w.e.f. 1-9-93. With this statement by the management it is clear that it has regularised some of the workmen who have fulfilled the guidelines and therefore there is no merit in this dispute. In this case the workmen has not established that they worked for 240 days and they have fulfilled qualification for regularisation.

27. In para 8 of the counter also certain facts are admitted by the management. With this it is clear that the management has not deprived the benefits to the workmen. Firstly the workmen have failed to establish that they have worked continuously for 240 days and secondly they have also failed to establish that they have fulfilled the qualifications required for regularisation. This is important because according to the admission of the management some of the workmen in this dispute who have fulfilled the qualifications are given temporary status.

28. I have read the following decisions cited by the learned counsel for the second party.

- (i) 1964(1)LLJ Madras P-95.
- (ii) AIR 1997 SC P-1855.
- (iii) 1986 Lab IC Ker WB P-1564.
- (iv) AIR 1997 SC P-3657
- (v) RLR 1998(80) P-608 SC.
- (vi) 1999(81)ALL P-319.
- (vii) 1993(66)P-613 (ALL WB).

29. Keeping in mind the principles held in the above decisions and the facts of the case, I am of the opinion that the workmen have failed to prove that they have worked for more than 240 days continuously.

30. In view of this, there is no merit in this reference and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 13th August, 2001.)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2407.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14), की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल कैटल ब्रिडिंग फार्म के प्रबंधन के संबंध निम्नलिखित जको और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार ने 24-8-2001 को प्राप्त हुआ था।

[सं. एल-42011/46/99-आई आर (डी यू)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 24th August, 2001

S.O. 2407.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Cattle Breeding Farm and their workman, which was received by the Central Government on 24-8-2001.

[No. L-42011/46/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 8th August, 2001

PRESENT :

K. KARITHIKEYAN, Presiding Officer

Industrial Dispute No. 57/2001

(Tamil Nadu State Industrial Tribunal
I.D. No. 73/2000)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Claimant Union and the Management of Central Cattle Breeding Farm Branch, Alamathi.)

BETWEEN

The General Secretary, : I Party/Claimant
National General Employees' Union,
Central Cattle Breeding Farm Branch,
Alamathi, Chennai.

AND

The Director : II Party/Management
Central Cattle Breeding Farm Branch,
Alamathi, Chennai.

APPEARANCE :

For the Claimant : M/s. M. Gnanasekar, C.
Promavathy & G. Manjula, Advocates.

For the Management : Sri K. Rajendran, Addl.
C.G.S.C.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-42011/46/99/IR(DU) dated 25-4-2000.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 73/2000. When the matter was pending enquiry in that Tribunal the Govt. of India Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 57/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal with a direction to appear before this Tribunal on 24-1-2001. On receipt of notice from this Tribunal counsel on either side present with their respective parties and prosecuted this case further.

This matter came up before me for final hearing on 20-6-2001, upon perusing the Claim Statement, Counter Statement, the other material papers on record, the oral evidence let in on the side of the I Party and documentary evidence let in on either side and upon hearing the arguments of learned counsel on either side this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

"Whether the demand of National General Employees' Union, Central Cattle Breeding Farm Branch for regularization of 30 casual workmen listed in the annexure is justified? If not, to what relief the workmen are entitled?"

2. The averments of the I Party/Claimant in the Claim Statement are briefly as follows :—The I Party/National General Employees Union (herein after referred to as Petitioner) has raised this dispute on behalf of the casual labourers in the II Party/Management of Central Cattle Breeding Farm Branch, Avadi, (Alamathi). The said casual labourers are all members of the Petitioner/Union and they have been in continuous service from 1982. They were engaged at the time of necessity and when there was a crisis in the farm in the year 1981. They have put in 19 years of continuous service and all of them were engaged regularly against the work performed by regular Group D employees and all of them have been paid equal pay on par with regular Group D employees. These casual workers have engaged against the work of regular nature. These casual labourers were engaged with other casual farm

labourers in 1981 in agriculture day to day farm works on daily wages basis and the wages were paid according to the Govt. approved rate. All these casual labourers have been placed under temporary status scheme w.e.t. 1-9-93. The services of these casual labourers have not been regularised by the Respondent. The Central Administrative Tribunal had passed an order on 5-6-89 in O.A.No. 184/88. In pursuance of the same, all the casual workers are getting equal pay on par with regular Group D employees. Because of the non-regularisation of these casual labourers, they are not getting any service benefits. By regularising the services of the casual workmen, the Respondent is not put to any hardship nor any additional financial burden. There is no justification for keeping the employees on casual basis for more than 19 years without the benefits of regularisation. Such an action of the Respondent is highly arbitrary and unjust. The service benefits enjoyed by the regular Group D employees were not extended to this casual workmen. There is no scarcity of employment to these workmen. Hence, it is prayed that an award may be passed directing the Respondent/Management to regularise the services of the workmen mentioned in the annexure from the date of their initial engagement and to give them consequential monetary benefits.

3. The averments in the Counter Statement of the II Party/Management are briefly as follows :—The concerned casual labourers were engaged in the farm of the II Party/Central Cattle Breeding Farm Branch, Alamathi (hereinafter referred to as Respondent) with other casual farm labourers during the year 1981. They were engaged in agricultural day to day farm work on daily wage basis and the wages were paid at the Govt. approved rate. Considering the number of years of service on casual basis, with the approval of the Ministry of Agriculture, by the reference dated 22/24-11-1993 all the 39 casual labourers have been placed under Temporary Status Scheme with effect from 1-9-1993, in terms of provisions contained in the D.O.F.T. No. 51016/2/90 dated 10-9-93. The temporary status workers are not eligible for all kinds of leave admissible to the regular employees. But they are entitled to wages at daily rates corresponding to the pay scale for regular Group D workmen including D.A., HRA and CCA and all other service benefits of the regular workmen also available to these casual workmen. The office has regularized the temporary status workers as and when regular vacancies arise and at present only 19 temporary status workers are working in the scheme and others are already regularized. They will also be regularised according to their seniority basis whenever a group D vacancy arises. The Petitioner Union Members filed 32 Original Applications before the Central Administrative Tribunal Chennai Bench and they were dismissed on 20-10-94. All those applications were disposed of by the Central Administrative Tribunal. So there is no merit in the claim proved by the Petitioner Association. Hence, it may be dismissed.

4. When the matter was taken up for enquiry, the Secretary of the Petitioner Union has been examined as WW1 and 12 documents have been marked as P- W1 to W12. On the side of the Management, the annex copy of the order passed by the Central Administrative Tribunal in O.A. No. 1583/92 and

342 to 370/93 dated 12-10-1994 has been marked as Ex. M1. No one was examined on the side of the Management. The learned counsel on either side have advanced their respective arguments.

5. The Point for my consideration is —

“Whether the demand made by the Petitioner Union for regularization of 30 casual workmen listed in the annexure to the Schedule by the Respondent/Central Cattle Breeding Farm Branch, Alamathi is justified? If not, to what relief, the said workmen are entitled?

Point :—

In the annexure appended to the Schedule of reference, the names of the 30 casual workmen has been given. The demand is made by the Petitioner Union for their regularization of service by the Respondent, the Director of Central Cattle Breeding Farm Branch, Avadi (Alamathi). The Secretary of the Petitioner Union Sri P. Thomas Rathinam has deposed in this case as workman witness No. 1. Though in the list of annexure to the schedule of reference, 30 persons have been made as casual labourers making a demand for regularization of service in the Respondent/Management, Central Cattle Breeding Farm, WW1 has admitted in his Chief Examination itself, that out of the 30 persons mentioned in the annexure to the Schedule of reference, one Smt. R. Gowri, serial number 28 had expired and that serial numbers 1, 2, 5 to 9, 13, 15, 19 and 21 have been regularized by the Respondent/Management in service. So out of the 30 persons mentioned in annexure to the Schedule of reference, now the claim has been made for the rest of 18 workmen. It is admitted that these workmen were engaged by the Respondent/Management, Central Cattle Breeding Farm as casual labourers to work along with casual farm labourers in agriculture day to day farm works. It is averred in the Counter Statement of the Respondent that the action is being taken to regularise the temporary status workers and accordingly, those workers have been regularized in service as and when regular vacancies arise. It is further contention in the Counter Statement of the Respondent that at present only 9 temporary status workers are working in the scheme and others were already regularized and they will also be regularized according to their seniority basis whenever a group D vacancy arises. This has not been disputed as incorrect by the Petitioner Union. It is the admission of WW1 in the cross examination, that subsequent to 1993 30 posts of Group D became vacant and for those posts no persons from outside were recruited by the farm Management. He would further admit that for those vacant posts workmen in the temporary status list were absorbed and 11 out of 30 people were given the regular posts because of the vacancy had arisen. He has also admitted that as on the date he gave evidence i.e. 11-6-2001 there are two vacancies in the Group D Post and steps have been taken by the Respondent/Management for filling up the two vacancies now in the Group D Post. He has also admitted that he does not know whether any approval has to be obtained from the Ministry, before the Director of Respondent/Management makes appointment for Group D vacancy. So from this evidence it is clearly seen that steps being taken by the Respondent/Management to regularize the services of these 18 temporary status workers casual labourers.

As per the admission of WW1 in the cross examination. The Respondent/Management has filled up the vacancies arise in the Group D post from out of the workmen in the temporary status list, who are the 30 workmen mentioned in the annexure to the schedule of reference. After absorbing 11 out of those 30 people and one person has been expired, only 18 people in the list are working in the Respondent/Central Cattle Breeding Farm as temporary status, list of labourers awaiting for regularisation and the same has been done by the Respondent/Management as and when the vacancies in the Group D posts arise. It is not the case of the Petitioner Union that the vacancy in the Group D post has been filled up by recruiting outside persons by the farm Management. It is the definite contention of the Respondent/Management that the Director of Central Cattle Breeding Farm Branch, has to obtain the approval of the Ministry before he makes an appointment for the Group D post vacancy. When it was put to WW1 in the cross examination, he says that he is not aware of the same. The xerox copies of the various orders passed by the Central Administrative Tribunal, and marked as Ex. M1 series by the Management go to show that that no direction has been given by the Administrative Tribunal to the Respondent/Management to create additional Group D posts and to consider the regularizing the services of these workmen and directions have been given by the Central Administrative Tribunal, Madras Bench in these orders to accommodate these personnel in Group D posts as and when permanent vacancy in that post arises. It is seen from Ex. W9, the xerox copy of the order passed by the Director, Central Cattle Breeding Farm Branch, the Respondent herein, that the regularisation of casual labourers were done by the Respondent according to the availability of vacant posts sanctioned by the Ministry. In that letter itself the Director of the Respondent firm has clearly stated that the remaining persons have not yet been regularized for want of sanctioned posts and in that letter dated 15-12-92 it was requested that the Department of Animal Husbandry and Dairying to sanction the posts accordingly, at an early date. From this it is seen that the regularisation of the service of the remaining casual workmen listed in the annexure is not now lies in the hands of the Respondent the Director, Central Cattle Breeding Farm, Avadi Alāmathy

6. It is the definite stand of the Respondent that now there is no post vacant in Group D in Central Cattle Breeding Farm Branch and as and when vacancy arises the person listed in the annexure as casual labourers who have taken as temporary status workmen only had been absorbed. This stand of the Respondent has not been disputed as incorrect or false by the Petitioner Union. It is also the case of the Respondent that in 1993 all these persons were granted temporary status under the scheme. It is also not disputed by the Petitioner. Further the contention of the Respondent that as and when the vacancy in Group D post arises out of three, one to be recruited directly and the Respondent for the benefit of the Petitioner Union Members filled up all the three vacancies from out of the Petitioner Union Members. It is admitted by the WW1 in his evidence. From Ex. W9 it is seen that the Director, Central Cattle Breeding Farm Branch, Alāmathy has no power to sanction a Group D post or abolish the

same post and the same is lies with the Ministry of Agriculture, Department of Animal Husbandry and Dairying, Govt. of India. The Petitioner Union has also not disputed the fact that the Respondent used to fill up the vacancies of Group D posts as and when it arises from out of the list of persons mentioned in the list of annexure to the schedule of reference and regularized their services. The learned counsel for the Petitioner has put forth an argument in the reply stating that posts are kept vacant from 1995 and they have not been filled up and Group D posts lying vacant for more than one year got abolished, like that seven posts are sought to be abolished and three posts of agricultural attendants are lying vacant from 19-3-96, 24-6-96, 6-8-96, respectively and three Group D vacancies lying vacant from 16-10-95, 27-5-96 and 1-1-97. For all these no acceptable substantial evidence has been put forth by the Petitioner Union. Even in the evidence of WW1, he has not given these particulars. So from the available evidence, it is seen that the Respondent, the Director, Central Cattle Breeding Farm Branch, Avadi, Alāmathy has no independent power to fill up the permanent vacancy in Group D as and when it arises without the approval of the Ministry. So, under such circumstances, the demand of the National General Employees Union, Central Cattle Breeding Farm Branch, Alāmathy for regularization of thirty casual workmen, now restricted to 18 listed in the annexure to the schedule of reference is not justified. Hence, a direction to the Respondent, the Director, Central Cattle Breeding Farm Branch, Alāmathy, cannot be given, under given circumstances, to regularize the remaining 18 casual workmen listed in the annexure, but they have to await for regularization which has to be done as and when a permanent vacancy in Group D post arise in the Respondent Central Cattle Breeding Farm Branch, Alāmathy. Thus, the issue is answered accordingly.

7. In the result, an award is passed holding that the demand of the National General Employees Union, Central Cattle Breeding Farm Branch, Alāmathy for regularization of 30, now restricted to 18 for the workmen mentioned as Serial Nos. 3, 4, 10 to 12, 14, 16 to 18, 20, 22 to 27, 29 and 30 listed in the annexure to the Schedule is not justified. Hence, they are not entitled to the relief of immediate regularization of service, as prayed for, but they have to await for their regularization as and when the vacancy in Group D post arise as a permanent one. No Cost.

(Dictated to the Stenographer, transcribed and typed by him corrected and pronounced by me in the open court on this day the 8th August, 2001.)

K. KARTHKEYAN Presiding Officer

Witnesses Examined

For the I Party/Claimant :

WW1—Shri P. Thomas Rathnam

For the II Party/Management : None

DOCUMENTS MARKED :

For I Party/Workman :

Ex. No. Date Description

W1 27-1-83—Xerox copy of the award of Industrial Tribunal, Chennai in I.D. Nos. 55 and 58/82.

W2 13-10-83—Xerox copy of the O.M. No. 49014/7/83-Estt. (C)

W3 26-10-84—Xerox copy of the O.M. No. 49014/19/84-Estt. (C)

W4 7-5-85—Xerox copy of the O.M. No. 49014/18/84-Estt. (C).

W5 7-6-88—Xerox copy of the O.M. No. 49014/2/86-Estt. (C).

W6 5-6-99—Copy of order in O.A. No. 184/88 of Central Administrative Tribunal, Madras.

W7 7-9-89—Xerox copy of judgement in W.P. No. 7667/83 of Madras High Court.

W8 8-4-91—Xerox copy of O.M. No. 49014/4/90/Estt. (C).

W9 15-12-92—Xerox copy of letter from the Director, Central Cattle Breeding Farm Branch, Alamathi to Shri R. Kandir, Under Secretary, Ministry of Agriculture.

W10 Nil—Xerox copy of seniority list of casual workers on Temporary status as on 20-3-97 working in Central Cattle Breeding Farm Branch, Alamathi

W11 23-8-2000—Extract from Work allotment register.

W12 2-8-91—Xerox copy of the letter from the Under Secretary Ministry of Agriculture to the Director, Central Cattle Breeding Farm Branch, Alamathi.

For the II Party/Management—

Ex. No.	Date	Description.
M1	20-10-94	Xerox copy of order in O.A. No. 1583 of 1992 And O.A. Nos. 340 to 370 of 1993.

Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का. या. 2408.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वये में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2001 को प्राप्त हुआ था।

[सं. पल.-12012/51/99-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, New Delhi, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their

workman, which was received by the Central Government on 18-8-2001.

[No. L-12012/51/99 IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, NEW DELHI

Presiding Officer.—Rudresh Kumar.

ADJUDICATION

I. D. No. 39/94

Ref. No. L-12012/51/99/IR/(B-1) dt. 12-5-1993

BETWEEN

Dy. General Secretary,
State Bank of India,
Staff Association,
F-314, Greater Kailash-I,
New Delhi (in the matter of Smt. Usha Kalra)

AND

Asstt. General Manager,
State Bank of India, P.O. 675,
11, Sansad Marg,
New Delhi.

AWARD

By reference No. L-12012/51/99/IR(B-1) dated 12-5-93, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of the I.D. Act, 1947 (14 of 1947), made over this industrial dispute between Dy. General Secretary, State Bank of India Staff Association, New Delhi, espousing cause of Smt. Usha Kalra and Asstt. General Manager, State Bank of India, New Delhi for adjudication.

The reference is produced as under :—

“Whether the action of the management of State Bank of India in transferring Mrs. Usha Kalra Teller from Saraswati Vihar branch to Hauz Quazi branch is justified? If not, to what relief the workman is entitled to?”

2. Facts giving rise to this industrial dispute are that Mrs. Usha Kalra (hereinafter to be referred the “workman”) was posted at Saraswati Vihar branch of the State Bank of India on transfer from Shakur Basti branch, in June, 1990, that the guidelines formulated to regulate transfers in the State Bank of India, on the basis of agreement between the union and the management required five years stay at a place in normal course, except transfer necessitated due to exigencies of service or for administrative reasons. Extract of relevant portion of the policy guidelines is produced hereunder :

“Clerical Staff in all categories of the staff in clerical scale of pay, with 5 years or longer stay at an office, are liable to be transferred to another office?”

3. The workman had barely stayed two years at Saraswati Vihar branch before she was transferred to Hauz Quazi branch by the management vide communication No. 21/14 dt. 25-4-92. Treating the transfer void and inoperative, the workman did not comply with this order, with the result of not having worked at any of the branches for the last more than eight years. It is contended that the transfer to Hauz Quazi branch was for malafide reasons and in no event, was necessitated by exigencies of the service or for administrative reasons. A number of allegations have been made in the claim statement against branch manager of Saraswati Vihar branch, and charged superior authorities of having acted to side him, irrespective of considering genuineness of reasons and grievances of the workman. The grounds may be summed up, in brief, i.e. non-transfer of time deposit worth Rs. 4.00 lakh from Saraswati Vihar branch to T. Hazari branch for invalid reasons, ultimately resulting into a civil suit, issuance of a number of memos by the branch manager of Saraswati Vihar branch on 24-12-91, 21-2-92 and 23-4-92 against the workman, causing harassment to her, denying promotional papers for a long time, delaying to issue salary certificates pertaining to financial years 1990-1991 till 11-9-1991, delaying payment of chitaining salary pertaining to June and July, 1990 till October, 1991, and undue patronage of high officers of the management bank, favouring the branch manager, Saraswati Vihar branch etc.

4. It is further alleged that the branch manager Saraswati Vihar branch became even more vindictive, on filing of a civil suit. A number of other allegations against the branch manager, Saraswati Vihar branch, have been made in the statement of claim, with a view to prove, that the transfer of the workman to Hauz Quazi branch, only after two years much below the prescribed period of five years, was against the policy of transfer for malafide considerations tantamount to unfair labour practice.

5. The factual base that the workman was transferred from Shakur Basti branch to Saraswati Vihar Branch in December, 1990 and again transferred in two years to Hauz Quazi branch is not disputed by the management. The Management has admitted transfer policy, generally followed in the bank, under a settlement between the All India State Bank of India Staff Federation and the management of the State Bank of India. However, it has defended its action by stating that the working atmosphere at Saraswati Vihar branch was so polluted due to animosity between the workman and the branch manager necessitating the transfer to create conducive working atmosphere. The management of the State Bank of India refuted various allegations made in the claim statement and justified its action on plea of administration imperatives and exigencies of services, which are recognised grounds at Note 1 of the Transfer Policy.

6. In totality of the facts and circumstances put forward by the parties in this case, main consideration is whether atmosphere was congenial at Saraswati Vihar branch inviting action by way of transfer of the workman from Saraswati Vihar branch to Hauz Quazi branch? In this context, it is not necessary to enter into merit of the civil suit filed by her

husband against the State Bank of India or other memos allegedly issued by the branch manager to Mrs. Usha Kalra. Evidence speaks that the employees of the branch also represented the Asstt. General Manager against the branch manager. Allegations and counter allegations made by the parties is sufficient to give inference that all was not well at the Saraswati Vihar branch, justifying measures to enforce discipline and create working atmosphere, and if necessary to take action by transfer or otherwise. Discussions of individual charges and counter charges, is not necessary for purposes of judging justification of transfer. Allegations made in the claim statement centred against the branch manager and not the transferring Authority viz., Asstt. General Manager. There is no material on record to justify inference that the Asstt. General Manager was under the thumb of the branch manager or siding him in the dispute between the workman and the branch manager. Admittedly, he was a superior authority required to assure proper atmosphere of working in subordinate branches in interest of customers and general public. There is no material on record to indicate that the impugned transfer was punitive, though only after two years of stay. The workman was adjusted in the city area, not very disadvantageous to the workman. If the workman was not satisfied with the place of transfer to Hauz Quazi branch, she could have approached for change. Her insistence to work with Saraswati Vihar branch, in face of tussel with the branch manager, for justifiable or unjustifiable reasons, is not understandable. Public services need to ignore egos of the employees, with a view to regulate and rationalise working. Allegations made in the claim statement, with any standard, justified inference of non-conducive working atmosphere at the Saraswati Vihar branch. The action of the Asstt. General Manager resorting to transfer of the workman was justified. As observed earlier, there was no malafide in the back ground of the impugned transfer.

7. During the course of oral argument, it was submitted that management of the bank suggested four branches to choose any one by the workman, during reconciliation proceeding before the Asstt. Labour Commissioner (Central) but the offer declined.

8. The workman did not carry out transfer order, being fully aware that the same was not stayed by the authorities or the court and has been operative all along. As a result, she did not render any service during all this period. As discussed above, there was no ill motive behind her transfer. Also, transfer was necessitated by administrative consideration and in no event, was against the transfer policy or the approved norms of transfer. More than eight years have elapsed and the workman ceased to have any right to Saraswati Vihar branch, even in accordance with the transfer policy, fixing five years norms. As such, she is not entitled to any relief on this count also. It is open to management to regularise the service of the workman as per rules.

9. Accordingly, the action of the State Bank of India in transferring Mrs. Usha Kalra, Teller, from Saraswati Vihar branch to Hauz Quazi branch was

not unjustified. The workman Mrs. Usha Kalra is not entitled to any relief.

10. Award as above.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का. अ. 2409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तरी रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2001 को प्राप्त हुआ था।

[स. एल.-41012/69/2000—आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 18-8-2001.

[No. L-41012/69/2000-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
LUCKNOW

Presiding Officer.—Rudresh Kumar.

ADJUDICATION

I. D. No. 69/2001

Ref. No. L-41012/69/2000/IR(B-I) Dt. 26-4-2001

BETWEEN

The Divisional Organisation Secretary
Uttar Railway Karmchhari Union,
283/63-Kha. Gharhi Kanaora (Premwati Nagar),
P.O. Manak Nagar,
Lucknow (U.P.)-226001.
(In the matter of Prabhadeen).

AND

The Divisional Engineer (1st),
Northern Railway,
DRM Office,
Hazratganj,
Lucknow (U.P.)-226001.

AWARD

By reference No. L-41012/69/2000/IR(B-I) dated 26-4-2001 in the Central Government in the Ministry of Labour, in exercise of powers conferred by clause

(d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), made over the industrial dispute between the Divisional Organization Secretary, Uttar Railway Karmchhari Union, Lucknow espousing cause of Prabhadeen and The Divisional Engineer (1st), Northern Railway, DRM Officer, Hazratganj, Lucknow for adjudication.

The reference is produced as under :

“Whether the action of Northern Railway, Lucknow in transferring and changing category of Prabhadeen was legal and justified? If not, what relief the workman is entitled?”

The workman instead of filing claim statement, submitted an application to-day through Mr. Pervaz Alam, Divisional Organization Secretary, Uttar Railway Karmchhari Union showing unwillingness to pursue this industrial dispute, since the management had already redressed grievances of the workman, Prabhadeen by changing his category and taking appropriate action in the matter of transfer. It is prayed that the reference be no adjudicated and be treated not pressed.

In view of this application, not pressing the claim, there appears no justification to proceed further. Accordingly, the reference is ordered to be returned without adjudication on merit, as not pressed.

Dt. 13-8-2001.

LUCKNOW.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 20 अगस्त, 2001

का.अ. 2410.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिणी रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2001 को प्राप्त हुआ था।

[स. एल.-41012/90/94—आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th August, 2001

S.O. 2410.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workman, which was received by the Central Government on 18-8-2001.

[No. L-41012/90/94-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 16th July, 2001

PRESENT :

K. KARTHIKEYAN, Presiding Officer,
Industrial Dispute No. 416/2001

(Tamil Nadu State Industrial Tribunal)

I.D. No. 112/96)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Shri P. Kulasekaran and the Management of the General Manager, Southern Railway)

BETWEEN

Sri P. Kulasekaran . . . I Party/Workman

AND

The General Manager,
Southern Railway. . . II Party/Management

APPEARANCE :

For the Workman—M/s. T. Penn Walter,
D. Geetha and J. Soundarichandrasekar,
Advocates.

For the Management—Sri P. Arulmudi, Advocate.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-41012/90/94-IR(B-1), dated 19-7-95.

This reference has been made earlier to the Tamil Nadu Industrial Tribunal, where it was taken on file as I.D. No. 112/96. When the matter was pending enquiry in that Tribunal, the Government of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 416/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 23-2-2001 with their respective parties. On receipt of notice from this Tribunal, the counsel on record on either side were present along with their respective parties and prosecuted this case further.

This matter came up before me for final hearing on 15-6-2001, upon perusing the Claim Statement, Counter Statement, the other material papers on record, upon perusing the oral and documentary evidence on the side of the I Party/Workman and upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows :—

“Whether the action of the Management of Southern Railway, Madras in terminating the services of Shri P. Kulasekaran from 21-12-1976 in violation of Section 25F of I.D. Act, 1947 is just, proper and legal? If not to what relief is the workman entitled?”

2. The Industrial Dispute as stated in the Claim Statement of the I Party/Workman is briefly as follows :—

The I Party/Workman Sri P. Kulasekaran (hereinafter referred to as Petitioner) was engaged as casual labourer under the control of Inspector of Works, Tambaram, Madras on 4-11-1975. He was a daily rated casual labour and was engaged only on need basis. Since his service was found unsatisfactory he was stopped from service from 21-12-1976. The petitioner has not been conferred temporary status. The Petitioner was not issued with the notice of retrenchment or paid notice pay. He was not paid retrenchment compensation under section 25F of the Industrial Dispute Act. As it is a contravention of section 25N of the Industrial Dispute Act, the retrenchment itself is ab initio void. The Petitioner filed a suit O.S. No. 86/1977 in the City Civil Court, Madras challenging his retrenchment as illegal and void. It was a suit for declaration that his retrenchment from service was illegal, void, ab initio and to reinstate him, in service with all benefits. The Industrial Disputes Act has been made applicable to the workers of Railway by virtue of 149(6) of the Indian Railway Establishment Code and the Railway Establishment Manual. Since the service rules were violated, the Petitioner filed a suit. The learned Sub-Judge passed an order that though there was a violation of section 25F of I.D. Act and it was illegal, the Petitioner should have raised an industrial dispute. Against that judgement and decree, the Petitioner filed an appeal as AS 297/82. The 5th Additional Judge, City Civil Court, Madras gave a finding in that appeal that it was a case of illegal retrenchment from service, which is in contravention of Section 25F of the I.D. Act, 1947. But however, dismissed that appeal with an observation that ‘the Petitioner should seek remedy only by way of raising an industrial dispute’. Then the Petitioner raised an industrial dispute under section 2A of the Industrial Disputes Act, 1947. The Central Government had referred the matter for adjudication to the Industrial Tribunal, Bangalore. Then as per the orders of the Government the case has been transferred to Madras Industrial Tribunal. The Petitioner had worked for more than 240 days. No notice of retrenchment, wages or retrenchment compensation had been offered or paid. Hence, the retrenchment of the Petitioner from service is unjust, improper and illegal. Hence, the Petitioner is deemed to be continued

in service with all benefits. There is no severance of relationship of master and servant in eyes of law. His juniors like Ponnusamy, Mani, Arasappan and Elumalai had been made permanent employees and drawing a salary of Rs. 4000 per month. The Petitioner was drawing a salary of Rs. 234 per month, when he was retrenched from service. Hence, this Tribunal may be pleased to order the Respondent/Management to reinstate the Petitioner in service with back wages, continuity of service and other attendant benefits.

3. The Respondent/Management, Southern Railway, Chennai had filed a Counter disputing the averments in the Claim Statement. They are briefly as follows :—

The Petitioner Sri P. Kulasekaran was engaged as casual labour under the control of Inspector of Works, Tambaram on 4-11-75 only and not on 21-10-75. The Petitioner was not continuously engaged. He has been stopped several times and was re-engaged as and when extra casual labourer was required by the administration. As the Petitioner's work was found to be unsatisfactory by the Supervisor the Inspector of Works, Tambaram, the Petitioner was stopped from service with effect from 21-12-1976. Stopping the Petitioner from service does not attract section 25F of the Industrial Disputes Act, 1947, since the Petitioner was engaged only as a daily rated casual labourer, who had not put in 240 days of continuous service. In fact, he had only rendered 267 days of total service, which was not continuous and which was besides not in a particular calendar year. In the suit filed by the Petitioner in the City Civil Court, the Hon'ble Court observed that the filing was illegal and bad in law and dismissed the suit and the appeal also. The Appellate Court gave a direction to raise an industrial dispute in the appropriate forum. The Petitioner aggrieved by that decision, filed a second appeal before the High Court. The High Court was also pleased to dismiss the appeal duly directing the Petitioner to seek his remedy under Industrial Disputes Act, 1947. The City Civil Court has not observed that the retrenchment is illegal. As the dispute raised by the Petitioner before the Assistant Labour Commissioner, Chennai ended in failure of conciliation, on submission of the report by Assistant Labour Commissioner, Chennai, the matter has been referred by the Government to this Tribunal for adjudication. The Petitioner was stopped from service because he was engaged as daily rated casual labourer. Since the Petitioner had not obtained temporary status, the Petitioner's averment that he was retrenched from service was denied. At no point of time, the relationship of master and servant in the eyes of law was exist between the Petitioner and the Respondent/Management. The Petitioner has no locus standi to compare the services of erstwhile juniors, who attained temporary status and absorbed permanently for the reason they had put in the required number of days of continuous service. The Petitioner was stopped from service due to his unsatisfactory performance, this does not amount to illegal retrenchment. He is not entitled to seek remedy under Industrial Disputes Act, 1947. Hence this Hon'ble Tribunal may be pleased to dismiss this industrial dispute by rejecting the claim made by the Petitioner.

4. The point for my consideration is—

“Whether the action of the Management of Southern Railway, Madras in terminating

the services of Shri P. Kulasekaran from 21-12-1976 in violation of Section 25F of I.D. Act, 1947 is just, proper and legal? If not, to what relief is the workman entitled?”

Point.—It is admitted that the I Party/Workman Sri P. Kulasekaran, the Petitioner herein was engaged as a casual labour under the Inspector of Works, Tambaram in the year 1975 and he was non-employed on 21-12-1976. When the matter was taken up for enquiry, when it was pending before the Tamil Nadu Industrial Tribunal, the Petitioner/Workman was examined himself as WW1. It is his evidence that he entered in service of the Respondent/Management as a Mason on 21-10-1975. He was given monthly salary of Rs. 250 at the daily wage rate basis of Rs. 8. He has not filed any document in support of his stand. It is his further evidence that he was removed from service on 21-12-76, when he was last working in Tambaram IOW. Ex. W1 is the xerox copy of a certified copy of the judgement in O.S. No. 8601/1977 from the file of City Civil Court, Madras. It is decided by the Court in that Judgement that “Civil Court has no jurisdiction to try the same and from the facts it is clear that the plaintiff was stopped from service only on account of unsatisfactory work and the stoppage will not amount to retrenchment and the plaintiff is not entitled to the relief of declaration”. Ex. W2 is the typed copy of the judgement passed by the 5th Additional Judge in A.S. No. 297/1992. That appeal was dismissed confirming the judgement of the City Civil Court under Ex. W1. Ex. W3 is the typed copy of the judgement by the High Court in 2nd appeal No. 1358/1986. The High Court has confirmed the decisions of both the Courts below in holding that the Civil Court has no jurisdiction to try this case as an industrial dispute. In the cross examination WW1 has stated that he does not know for what reason he was removed from service. He has denied the suggestion that he has not worked continuously for the period of 240 days in a calendar year and he was employed only as labourer on daily wages. Though he has denied such suggestions put by the learned counsel in the cross examination, he has not filed any documentary evidence in support of this contention. It is specifically contended by the Respondent/Management that the Petitioner had not put in 240 days in a calendar year to grant a temporary status and hence the Petitioner is not right in claiming retrenchment compensation comparing with others who have worked for 240 days in a calendar year and obtained consequential benefits. The contention of the Respondent/Management that the disengagement of the Petitioner from service is due to his unsatisfactory performance is not disputed as incorrect. Under such circumstances, on the basis of materials available in this case and on the basis of admission of WW1 in his evidence it is seen that the Petitioner was employed by the Respondent/Management on daily wage basis casual labourer and he was disengaged from service by the Respondent/Management due to his unsatisfactory performance in service. In view of this aspect, it can be held that there was no violation of section 25F/25N of the Industrial Disputes Act, 1947 as alleged by the Petitioner. Since it is not proved by the Petitioner that he had worked for a continuous period of 240 days in a calendar year, he is not entitled to claim compensation for the Respondent disengaging him from

service. The contention of the Respondent/Management that the petitioner was stopped from service on account of his unsatisfactory work even before he had attained temporary status has not been disputed by substantial or acceptable evidence by the Petitioner. So, there is no question of termination of service of the Petitioner by the Respondent/Management and hence the claim of the Petitioner that he was terminated from service contrary to the provisions of the Industrial Disputes Act is not sustainable. Further, it cannot be said that it is contrary to Rule 149(6) of Indian Railway Establishment Code. In view of the above, it can be concluded that the Petitioner's claim for reinstatement in service with back wages and continuity of service with other attendant benefits cannot be granted. So, under such circumstances, it can be concluded that the action of the Management of Southern Railway, Madras in stopping the Petitioner/Workman from service from 21-12-1976 (which is not termination of service) is not in violation of section 25F of the Industrial Disputes Act, 1947. Hence, such action of the Management against the I Party/Workman is just, proper and legal and the Petitioner/Workman is not entitled to any relief. Thus I answer the point accordingly.

5. In the result, an award is passed holding that the action of the Management of Southern Railway, Madras in stopping the Petitioner/Workman Sri P. Kulasekaran from service on 21-12-1976, which is not a termination of service to attract the provision of Section 25F of the Industrial Disputes Act, is just, proper and legal. The concerned workman is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 15th July, 2001).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

For the I Party/Workman :
WW1—Shri P. Kulasekaran.

For the II Party/Management :
None.

Documents Marked :

For I Party/Workman :

Ex. No.	Date	Description
W1	15-03-80	Xerox copy of judgement in O.S. No. 8601 of 1977.
W2	04-02-83	Xerox copy of order in A.S. No. 297 of 1982.
W3	23-08-90	Xerox copy of the order in S.A. No. 1358 of 1986.

For the II Party/Management :
Nil.

नई दिल्ली, 21 मगस, 2001

कांअ. 2411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार वेस्टर्न रेलवे कोटा के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम/1947 के अन्वय में निम्नलिखित प्रमाणित करती है, जो केन्द्रीय सरकार को 24-10-2000 को प्राप्त हुआ था।

[न. ए. नं-41011/16/90—आई आर (बी-1)]

राज्य कुर्मी, डेस्क अधिकारी

New Delhi, the 21st August 2001

S.O. 2411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway, Kota and their workman, which was received by the Central Government on 20-8-2001.

[No. I-41011/16/90-IR(B-1)]

AJAY KUMAR, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिनियम एवं श्रम न्यायालय, जयपुर

आदेश संख्या :—एन-41011/16/90—आई आर बी आई.
28-8-2000

प्रकरण संख्या :—सी.जी.आई.टी./66/2000
डिवीजनल रेलवे मैनेजर, वेस्टर्न रेलवे कर्मचारी परिषद,
भीमराज मण्डी, कोटा ।

—प्रार्थी युनियन

बंशम

डिवीजनल रेलवे मैनेजर, वेस्टर्न रेलवे, कोटा —अप्रार्थी
उपस्थित :—

प्रार्थी युनियन की ओर से श्री ए.डी. ओवर, प्रतिनिधि
अप्रार्थी की ओर से श्री श्यामसुता, अधिवक्ता
पंचाट दिनांक :— 4-7-2001

पंचाट

केन्द्रीय सरकार के द्वारा निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है) की धारा 10 की उपधारा (1) के खंड-घ के प्रावधानों के अन्तर्गत आदेश संख्या : 41011/16/90—आई आर. (बी) 24-10-90 के द्वारा केन्द्रीय सरकार औद्योगिक अधिनियम, 1947 दिल्ली को न्याय निर्णय हेतु निर्देशित किया गया ।

"Whether the action of the Divisional Railway Manager, Kota Division, Kota is justified in not paying transfer allowance and packing charges to 36 Gangmate/Gangmen (as per annexure)? If not, what relief the workmen concerned are entitled to?"

आदेश संख्या : एन-41011/16/90—आई आर बी आई दिनांक 28-8-2000 के द्वारा उक्त प्रकरण से संबंधित कार्यवाही को इस अधिनियम के अन्वय में स्थानान्तरित किया गया ।

प्रार्थी की ओर से स्टेटमेंट आफ क्लेम प्रस्तुत किया गया, जिसका जवाब विपक्षी की ओर से प्रस्तुत किया गया। क्लेम व जवाब में उल्लेखित तथ्यों का विवरण दिया जाता इसलिए अपेक्षित नहीं है कि दोनों ही पक्षकारों की ओर से कोई माध्य प्रस्तुत नहीं की गई व प्रकट किया गया कि प्रस्तुत प्रकरण में विवाद रहित पंचाट पारित कर दिया जाए। ऐसा प्रकट होता है कि पक्षकारों में आपस में समझौता हो गया है, अतः विवाद रहित पंचाट पारित किया जाता है।

पंचाट की प्रतिनिधि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

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पीठासीन अधिकारी

नई दिल्ली, 21 अगस्त, 2001

का.आ. 2412.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे, कोटा के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं. एल-41011/39/90-आई आर (डीयू)आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 21st August, 2001

S.O. 2412.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Pashchim Railway, Kota and their workman which was received by the Central Government on 20-8-2001.

[No. L-41011/39/90-IR(DU)/IR(B-I)]
AJAY KUMAR, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

आदेश संख्या :—एल-41011/39/90-आई आर बी.
आई./28-8-2000

प्रकरण संख्या :—सी. जी. आई. टी./63/2000

डिवीजन सेक्रेटरी, पश्चिम रेलवे कर्मचारी परिषद, भीमराज भण्डी, कोटा।

—प्रार्थी युनियन

बनाम

डिवीजनल मैनजर, पश्चिम रेलवे, कोटा।

—अप्रार्थी

उपस्थित :—

प्रार्थी की ओर से श्री ए. डी. श्रोवर, प्रतिनिधि
अप्रार्थी की ओर से श्री श्याम गुप्ता, अधिकारी
पंचाट : दिनांक 4-7-2001

पंचाट

केन्द्रीय सरकार के द्वारा निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसमें बाद में अधिनियम, 1947 कहा गया है।) की धारा 10 की उपधारा (1) के खंड घ के प्रावधानों के अन्तर्गत आदेश संख्या : एल/41011/39/90-आई आर. (डीयू) 9-5-1991 के द्वारा केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली को न्याय निर्णय हेतु निर्देशित किया गया।

“Whether the action of the Divisional Railway Manager, Western Railway, Kota in denying promotion and not paying benefit of upgradation to S/Shri Shriram M, and Surajmal S., Trolley men from 1-8-82 is justified? If not, what relief the concerned workmen are entitled to and from what date?”

आदेश संख्या :- एल-41011/39/90-आई आर बी. आई. दिनांक 28-8-2000 के द्वारा उक्त प्रकरण में संबंधित कार्यवाही इस अधिकरण को न्यायनिर्णय हेतु स्थानान्तरित की गई।

प्रार्थी की ओर से स्टेटमेंट आफ क्लेम प्रस्तुत किया गया, जिसका जवाब विपक्षी की ओर से प्रस्तुत किया गया। क्लेम व जवाब में उल्लेखित तथ्यों का विवरण दिया जाता इसलिए अपेक्षित नहीं है कि दोनों ही पक्षकारों की ओर से कोई माध्य प्रस्तुत नहीं की गई व प्रकट किया गया कि प्रस्तुत प्रकरण में विवाद रहित पंचाट पारित कर दिया जाए। ऐसा प्रकट होता है कि पक्षकारों में आपस में समझौता हो गया है, अतः विवाद रहित पंचाट पारित किया जाता है।

पंचाट की प्रतिनिधि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

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पीठासीन अधिकारी

नई दिल्ली, 22 अगस्त, 2001

का. आ. 2413.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. जयपुर उद्योग लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-01 को प्राप्त हुआ था।

[सं. एल.-29012/119/99-आई आर (एम)]
बी. एम. डेविड, अवर मचि

New Delhi, the 22nd August, 2001

S.O. 2413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, JAIPUR (RAJASIHAN) as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. JAIPUR UDYOG LTD. and their workmen which was received by the Central Government on the 22-08-2001.

[No. L-29012/119/99/IR(M)]

B. M. DAVID, Under Secy.

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर ।

आदेश संख्या : एल-29012/119/99-आई.आर. (एम)
दिनांक 24-5-2000

प्रकरण संख्या :—सी.जी.आई.टी./28/2000

प्रसादी लाल लोदवाल वृत्त श्री भवानी लाल द्वारा संयुक्त
महामंत्री, हिन्दू मजदूर संघ, बंगाली कॉलोनी छावनी, कोटा
(राजस्थान)

—प्रार्थी

बनाम

प्रबंधक, सी जयपुर उद्योग लिमिटेड, माहलगर, सवाईमाधोपुर
(राजस्थान) —अप्रार्थी

उपस्थित :—

प्रार्थी की ओर से	श्री एन. के तिवारी
अप्रार्थी की ओर से	कोई नहीं
पंचाट दिनांक	25-6-2001

पंचाट

केन्द्रीय सरकार के द्वारा निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिस बाद में अधिनियम, 1947 कहा गया है) की धारा 10 की उपधारा 2-क एवं उपधारा (1) के खंड-घ के प्रावधानों के अन्तर्गत उक्त आदेश के ज़रिए न्याय निर्गमन हेतु निर्देशित किया गया :—

"Whether Shri Prasadi Lal Lodwal is a workman under section 2(s) of the I.D. Act? If so, to what relief he is entitled on his termination dated 28-2-1998 by the management of M/s. Jaipur Udyog Ltd. and from which date?"

प्रार्थी की ओर से स्टेटमेंट आफ़ क्लेम प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि उसकी नियुक्ति विपक्षी संस्थान में पत्र दिनांक 11-11-95 के द्वारा जूनियर इंजीनियर (मार्ईन्स) के पद पर की गई थी, जिसकी पालन में उसने विपक्षी संस्थान में दिनांक 30-11-95 को अपनी उपस्थिति दी व उसे कार्य पर ले लिया गया। पत्र दिनांक 11-3-96 के द्वारा उसे फोरमैन (मार्ईन्स) के पद पर नियुक्त कर दिया। पत्र दिनांक 9-12-96 के द्वारा उसे दिनांक 30-11-96 से फोरमैन (मार्ईन्स) के पद पर स्थाई कर दिया। विपक्षी

के अधीनस्थ अधिकारी मैनेजर ने अक्टूबर, 97 व फरवरी, 98 में सेवा से न्याय-पत्र देने हेतु दबाव डाला, जिस पर उसने न्याय-पत्र देने में इत्कार कर दिया। इस पर विपक्षी ने पत्र दिनांक 28-2-98 के द्वारा नियुक्ति पत्र दिनांक 11-5-96 के खंड-9 को आधार बनाकर उसे सेवा से पृथक कर दिया। उसकी सेवामुक्ति किए जाने से पूर्व के 12 महीनों में विपक्षी के अधीन 100 से अधिक श्रमिक सेवा में नियोजित थे व इस कारण अधिनियम, 1947 की धारा 25-एन के प्रावधान लागू होने हैं। उसे विपक्षी संस्थान में किसी कर्मचारी को नियुक्त करने सेवा में हटाने किसी कर्मचारी के विरुद्ध अनुशासनिक कार्यवाही करने अथवा अन्वेषण स्वीकृत करने का कोई अधिकार नहीं था। अतः वह अधिनियम, 1947 की धारा 2 (एम) के अन्तर्गत कर्मकार की परिभाषा में आता है। उसे सेवा से पृथक करने से पूर्व अधिनियम, 1947 की धारा 25-एन के प्रावधानों के अनुसार न तो तीन माह का नोटिस दिया व न नोटिस वेतन व न मुआवजा। उसकी सेवा समाप्ति छंटनी की परिभाषा में आती है। प्रार्थना की गई कि उसे पिछले सम्स्त वेतन सहित मध्य सम्स्त पिछले लाभों के सेवा में बहाल किया जाए।

अप्रार्थी की ओर से दिनांक 27-09-2000 को श्री राजीव शर्मा, अधिवक्ता उपस्थित आए। जवाब के लिए दिनांक 01-11-2000 नियत की गई। दिनांक 01-11-2000 को अप्रार्थी की ओर से कोई उपस्थित नहीं आया व न जवाब प्रस्तुत किया गया। अतः अप्रार्थी के विरुद्ध एकपक्षीय कार्यवाही की गई। प्रार्थी की ओर से क्लेम के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया गया व प्रलेखीय साक्ष्य से प्रतिलिपि पत्र दिनांक 11-11-95 (प्रदर्श डब्ल्यू-1) प्रतिलिपि पत्र दिनांक 11-3-96 (प्रदर्श डब्ल्यू-2), प्रतिलिपि पत्र दिनांक 09-12-96 (प्रदर्श डब्ल्यू-3) प्रतिलिपि पत्र दिनांक 28-02-98 (प्रदर्श डब्ल्यू-4) प्रतिलिपि प्रार्थना-पत्र दिनांक 18-05-99 (प्रदर्श डब्ल्यू-5), प्रतिलिपि जवाब प्रार्थना-पत्र (प्रदर्श डब्ल्यू-6), प्रतिलिपि प्रतियुत्तर (प्रदर्श डब्ल्यू-7), प्रतिलिपि प्रतियुत्तर का उत्तर (प्रदर्श डब्ल्यू-8) एवं प्रतिलिपि असफल वार्ता प्रतिवेदन (प्रदर्श डब्ल्यू-9) प्रस्तुत किए।

वहस मुनी गई एवं पताबली का अवलोकन किया गया।

प्रार्थी ने सशपथ कहा है कि अप्रार्थी के पत्र दिनांक 11-11-95 (प्रदर्श डब्ल्यू-1) के द्वारा उसे जूनियर इंजीनियर (मार्ईन्स) के पद पर नियोजित किया गया था, जिस पर उसने दिनांक 30-11-95 को कार्य ग्रहण कर लिया। पत्र दिनांक 11-03-96 (प्रदर्श डब्ल्यू-2) के द्वारा उसे फोरमैन (मार्ईन्स) के पद पर नियुक्त किया गया। पत्र दिनांक 09-12-96 (प्रदर्श डब्ल्यू-3) के द्वारा उसे फोरमैन (मार्ईन्स) के पद पर स्थाई कर दिया। पत्र दिनांक 28-02-98 (प्रदर्श डब्ल्यू-4) के द्वारा उसे नियुक्ति पत्र दिनांक 11-03-96 के खंड-9 को आधार मानकर उसे सेवा से पृथक कर दिया। उसे विपक्षी संस्थान में किसी कर्मचारी को नियुक्त करने, सेवा से पृथक करने, किसी कर्मचारी के विरुद्ध अनुशासनिक कार्यवाही करने अथवा अन्वेषण स्वीकृत करने का अधिकार नहीं था। उसे सेवा

में पृथक् करने में पूर्व न तो तीन माह का नोटिस दिया न तीन माह का अग्रिम वेतन व न मुआवजा।

पत्र दिनांक 11-03-96 (प्रदर्श डब्ल्यू-2) के द्वारा प्रार्थी की नियुक्ति फॉरमेन्स (मार्डन्स) के पद पर 4900/- रुपए प्रतिमाह पर की गई थी। इसके अनिवार्य वह कम्पनी के नियमों के अनुसार भत्ते व अन्य लाभ प्राप्त करने का अधिकारी था। नियुक्ति-पत्र की शर्त संख्या-9 के अनुसार उक्त पद पर स्थाई होने के पश्चात् प्रार्थी की सेवा एक माह का नोटिस वेतन देकर दोनों पक्षों में से किसी के द्वारा समाप्त की जा सकती थी। पत्र दिनांक 09-12-96 के द्वारा दिनांक 30-11-96 में उसे फॉरमेन्स (मार्डन्स) के पद पर स्थाई कर दिया गया। पत्र दिनांक 28-02-98 (प्रदर्श डब्ल्यू-4) के द्वारा उसकी सेवा दिनांक 28-02-98 अवरान्त समाप्त कर दी गई व उक्त पत्र में यह उल्लेख किया गया कि उसे एक माह का वेतन नोटिस के बदले में दिया जाएगा।

अधिनियम, 1947 की धारा 2 (एम) के अन्तर्गत कर्मकार की परिभाषा निम्न प्रकार दी गई है :—

“Workman” means any person (including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957), or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, function mainly of a managerial nature.]”

प्रार्थी ने अपने कथन में स्वीकार किया है कि वह फॉरमेन्स (मार्डन्स) के पद पर कार्य करते हुए अधीनस्थ कर्मकारों से कार्य लेता था। उनको कार्य बताता था, उनके कार्य की देखरेख करता था व उनको समझाता था। इसके अनिवार्य अथ कोई निर्धारित कार्य देने तो वह करता था। प्रार्थी के फॉरमेन्स के पद पर होते हुए उक्त कार्य सुपरवाइजरी की ड्यूटी के अन्तर्गत आते हैं। नियुक्ति-पत्र की शर्तों के अनुसार प्रार्थी का वेतन 4900/- रुपए प्रतिमाह था व इस प्रकार प्रार्थी अधिनियम, 1947 की धारा 2 (एम) में दी गई कर्मकार की परिभाषा के खण्ड संख्या-4 में अपवाद की श्रेणी में आता है। इस प्रकार यह प्रमाणित नहीं होता कि प्रार्थी विपक्षी संस्थान में बतौर कर्मकार के नियोजित था। अतः प्रार्थी की सेवा समाप्ति के मामले में न तो अधिनियम, 1947 की धारा 25-एफ व न 25-एन के प्रावधान आकृष्ट होते हैं व प्रार्थी कोर्ट सहायता प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह /—

पीठासीन अधिकारी

नई दिल्ली, 22 अगस्त, 2001

का.सं. 2414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नुआसाही क्रोमाइट माइन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सदनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-2001 प्राप्त हुआ था।

[सं. एल-29012/4/99—आई आर (एम)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 22nd August, 2001

S.O. 2414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar (Orissa) as shown in the Annexure, in the Industrial dispute between the employers in relation to the Nuasahi Chromite Mines and their workmen which was received by the Central Government on the 22-08-2001.

[No. L-29012/4/99/IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 261/2001
Dated, Bhubaneswar, the 1st August, 2001

BETWEEN

The Management of Nuasahi Chromite Mines of
M/s. IMFA Ltd., Rasulgarh,
Bomikhal,
Bhubaneswar.

1st Party Management

AND

Their workman Shri Satrugan Patra,
At/P.O. Bangore, Via Hadgarh,
Keonjhar.

2nd Party Workman

APPEARANCES :

Mr. M. K. Mahapatra and
Mr. M. R. Kar.

For the 1st Party
Management.

None

For the 2nd Party
Workman

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of Sub-Section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/4/99/IR(M), dated 8-6-1999 :

“Whether the action of the management of Nuasahi Chromite Mines of M/s. IMFA by refusing employment to Shri Satrugan Patra is legal and justified ? If not, to what relief the workman is entitled ?”

2. While making reference intimation was also sent to the Management and the Workman to file their respective claim statements before this Tribunal within fifteen days from the date of receipt of the reference. The reference was made on 8-6-1999. The Tribunal on receipt of the reference also issued notices to the parties. In spite of direction of the Tribunal and the Government of India (Ministry of Labour), the workman has not made his appearance before the Tribunal and he has not filed his statement of claims. Notice was duly served on him but he did not take any step to take part in the proceeding and to place his case before the Tribunal to answer the reference. Since, 1999 the reference could not be answered in absence of the workman and for not taking any step by him.

3. The above circumstances would suggest that no dispute exists between the parties and the workman has got no cause of action and that he has got no materials in support of his case.

4. Hence, no dispute award is passed and the workman is not entitled for any relief. The reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 22 अगस्त, 2001

का. अ. 2415 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने फोर्बस गोकक लि. के प्रबंधकों के संवह नियोजकों और उनके कर्मचारियों के बीच, अनुवच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, 1947 के पचास को प्रवर्णित करती है, जो केन्द्रीय सरकार को 22-08-2001 को प्राप्त हुआ था।

[न. ए. ल.-39012/4/2001-आई आर (एम)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 22nd August, 2001

S.O. 2415.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Forbes Gokak Ltd. and their workman which was received by the Central Government on the 22-08-01.

[No. L-39012/4/2001/IR (M)
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI
PRESENT :

S. N. Saundankar, Presiding Officer

REFERENCE NO. CGIT 1/14 OF 2001

EMPLOYERS IN RELATION TO THE MANAGE-
MENT OF M/S. FORBES GOKAK LTD.

M/s. Forbes Gokak Ltd.,
The Vice -President (HR),
Patvolk Division, 19, J. N. Heredia Marg,
Ballard Estate,
Mumbai 400 001.

AND

THEIR WORKMAN

Shri S. Ramanathan,
13, Yamuna, 3rd Floor,
Mulund Sandesh Co-op. Hsg. Society,
B-Nahur Road,
Mulund (W),
Mumbai.

APPEARANCES :

For the Employer Mr. L. L. D'Souza,
Representative.

For the Workman In person.

Dated, 8th August, 2001

AWARD

The Government of India, Ministry of Labour, by its Order No. L-39012/4/2001/IR(M), dated 30-3-2001, have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it, by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 :

“Whether the action of the management in terminating the services of Shri S. Ramanathan w.e.f. 25-5-2000 is legal and justified ? If not, what relief the workman, Shri S. Ramanathan is entitled to ?”

2. Pursuant to notices, workman Shri S. Ramanathan, filed his Statement of Claim (Ex. 4) and when the matter was fixed for filing written

statement by the management M/s. Forbes Gokak Ltd., Mumbai, the workman filed application (Ex. 7) pointing out that reference on the same point on his termination of services was received by CGIT No. 2 from the Ministry vide No. L-39012/5/2001/IR(M) Dated 14-05-2001 (Ref. No. CGIT 2/72/2001) which is fixed for the written statement of the management on 07-09-2001. Therefore, the workman desires to pursue the above matter before CGIT No. 2 and, consequently the instant reference be disposed of. The management has no objection to that. In view of the above position the reference will have to be disposed of and hence the Order :

ORDER

Reference stands disposed of vide application Ex. 7.

S. N. SAUNDANKAR, Incharge Presiding Officer

नई दिल्ली, 23 अगस्त, 2001

का.आ. 2416 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैन्जींग ओर (इंडिया) लि. के प्रबंधन के संबंध में निर्यातों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के तबल को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-01 को प्राप्त हुआ था।

[सं. एन-27012/1/87-डी.-III (बी)]
बी.एम. डेविड, अवर सचिव

New Delhi, the 23rd August, 2001

S.O. 2416.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Manganese Ore (India) Ltd. and their workman, which was received by the Central Government on 20-08-2001.

[No. L-27012/1/87-D-III(B)]
B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR
COURT, JABALPUR

CASE No. CGIT/LC/R/168/87
PRESIDING OFFICER : SHRI K.M. RAI
Shri S.O. Gupta
Authorised Representative of Mudi Bai
BMMS (BMS), P.O. Tirodi,
Distt. Balaghat (MP)Applicant
Versus

The Chairman cum Managing Director,
Manganese Ore (India) Ltd.,
3, Mount Road,
Nagpur (MS)

....Non-applicant

AWARD

Passed on this 29th day of June, 2001

1. The Government of India, Ministry of Labour vide order No. L-27012/1/87-D-III(B) dated 21-8-87 has referred the following dispute for adjudication by this tribunal.

"Whether the action of the management of Tirodi Manganese Mines of Manganese Ore (India) Ltd. PO Tirodi Distt. Balaghat in retiring Smt. Mudi Bai W/o Daji a piece rated worker w.e.f. 1-7-86 is justified? If not, what relief the workman is entitled to?"

2. The case for the workman is that she was employed at Tirodi mine, Distt. Balaghat by the management. As per agreement between the Union and the management dated 13-11-68, she was to retire after attaining the age of 60 years. The provisions of certified standing orders 1979 were not applicable in the case of workman as she was employed prior to the coming into force of the standing orders. She was wrongly retired w.e.f. 1-7-86 after attaining the age of 58 years. She would have been retired w.e.f. 30-6-90 after attaining the age of 60 years. In this way she has been wrongly retired by the management and therefore she is entitled to all monetary benefits for the said period which has been denied by the management.

3. The case for the management is that the workman was employed in Tirodi Mines of the Manganese Ore (India) Limited. According to the certified standing order, the retirement age of an employee is 58 years. In the year 1984, several employees made a complaint regarding their incorrect recording of date of birth in the Provident Fund Record and therefore the Union and the management agreed to get the workers medically examined by the Medical Board to determine their date of birth. It was agreed between the Union and the management that the certificate issued by the Medical Board after medical examination shall be final and the date of birth given in the same shall not be challenged. In the light of this agreement, the workman was medically examined by the Medical Board and her age was confirmed as 56 years on 29-6-84. Based on this re-assessment of age by the Medical Board, she was retired from service w.e.f. 1-7-86. In this way no illegality has been committed by the management in retiring the workman from service w.e.f. 1-7-86. In view of all these facts, the workman is not entitled to the relief of retiring at the age of 60 as claimed by her in this case. The order of retirement is perfectly valid and does not require any interference.

4. The following issues arise for decision in this case and my findings thereon are noted hereinafter:—

1. Whether the management illegally retired the workman w.e.f. 1-7-86 ?

2. Whether the workman is entitled to get the relief of retirement at the age of 60 years ?

3. Whether the workman is entitled to monetary benefits as claimed by her?

4. Relief and costs ?

5. Issues No. 1 and 2:

Sec. 25 of the certified standing order reads as under:

“Every workman shall retire from the service of the management on his completing the age of 58 years. In the absence of usual proof of age e.g. school leaving certificate from the Municipal Committee, the age set forth in the provident fund record (Nomination form) of the workman shall be the basis of arriving at the age of retirement of the workman. In case of those workman whose dates of birth are shown in the records of the management in years only without any specific month and date, such workman shall retire from the service with effect from 1st of July of the year in which they complete 58 years of age.”

6. The above said provisions of the certified standing order clearly go to show that the retiring age of the employee shall be 58 years and not 60. This standing order came into force after the Union and the management agreed to it. According to this provision every employee was to retire after attaining the age of 58 years. In this connection, the disputed date of birth of the workman was finally assessed by the Medical examination conducted by the medical board as per agreement between the Union and the management. As per Medical Board Certificate, the workman's age was assessed as 56 years on 29-6-84. In this way no error has been committed by the management in retiring the workman after attaining the age of 58 years on 1-7-86. The service condition of the workman was governed by the certified standing orders of 1979 and not by the agreement of 1968. Hence the date of her retirement was perfectly valid and no illegality in this respect has been committed by the management.

7. The workman's claim for accepting the age of retirement on 30-6-90 is neither proper nor acceptable in the light of the provisions of Sec. 25 of the certified standing order 1979 which governs the service conditions of the employees of Manganese Ore (India) Limited. The entry of date of birth in the identity card of the workman is not the legal basis

to determine the age of any employee. The age can be determined only by the entries made in the record of Provident Fund or other service records of the employee. Her date of birth as year 1930 has nowhere been entered into the relevant records. Hence her plea on this point cannot be accepted to be true. Her age was properly assessed by the medical board according to the agreement arrived at between the Union and the management. Hence she cannot claim any other benefit as far as her date of birth is concerned.

8. In view of the above said reasons it is held that the workman was rightly retired on 1-7-86 after attaining the age of 58 years. She cannot claim her retirement after attaining the age of 60 years. Issue Nos. 1 & 2 are answered accordingly.

9. Issue No. 3 :

In view of my findings given on issue Nos. 1 & 2, the workman is not entitled to any monetary benefits in the present case. This issue is answered accordingly.

10. Issue No. 4 :

On the reasons stated above, the workman is not entitled to any relief as claimed by her in this case. The reference is accordingly answered in favour of the management and against the workman.

11. Copy of the award be sent to the Ministry of Labour as per rules

K. M. RAI, Presiding Officer

नई दिल्ली, 24 अगस्त, 2001

का.अ. 2417.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैस ऑथोरिटी ऑफ इण्डिया लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में श्रम न्यायलय विशाखापटनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[पं. एच-11021/3/2001—ग्रह आर (एम)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 24th August, 2001

S.O. 2417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Gas Authority of India Ltd., and their workman,

which was received by the Central Government on 20-8-2001.

[No. H-11021/3/2001-IR(M)]

B. M. DAVID, Under Secy

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL
CUM LABOUR COURT : VISAKHAPATNAM

PRESENT : Sri C Sambasiva Rao, M.A. B.L.,
Chairman & Presiding Officer.

Dated : 8th day of November, 1999

I.T.I.D.(C)No 11/97.

Directly filed under section 2A(2) of the Industrial Disputes Act.

BETWEEN :

Kothala Raja Ratnam,
S/o Venkata Reddy
K.V. Lanka,
H/o Totharamudi village,
Inavilli Mandalam,
East Godavari District. Workman

And

The Gas-Authority of India Limited,
(Central Government Undertaking)
D. No. 16-7-18, Jethi Avenue,
Danavaipeta, Rajahmundry-3,
Rep. by Regional Manager/Office incharge. . . Management.

This dispute coming on for final hearing before me in the presence of Sri K. Kameswara Rao, Advocate for workman and of Sri M. Ramdas, advocate for Management, upon hearing the arguments of both sides and on perusing the entire material on record, the court passed the following :

AWARD

(1) This is a dispute raised by a workman under Sec. 2A(2) of the Industrial Disputes Act, 1947 seeking the relief of reinstatement with all back wages and other benefits due to such employees holding the discharge of the petitioner as illegal and costs of the petition

(2) As per the allegations of the workman that the Management appointed the father of the petitioner as Care taker at the Gas Point in Totharamudi Village in Inavilli Mandalam East Godavari District on a monthly salary of Rs. 600 on 6-5-92. He was recruited on the recommendations of its contractor by name K. Venugopala Rao. But unfortunately the father of the workman died on 13-2-95. On compassionate grounds the management appointed the workman who is the son of the deceased person on the same terms and conditions on 14-2-95. As

this is a good job in a Central Government Undertaking with job security pulls and counterpulls applied on the respondent, by influential people in the locality, to have their own people in the jobs and consequently the management caved in and removed the workman from job in the 1st week of April, 1995. Technically speaking the workman also who was continuing the service of his father is deemed to have been in continuous service of the management company as having been appointed on compassionate grounds. The workman is considered a permanent employee of the management and the discharge of him is illegal. The management did not follow the provisions contained in the I.D. Act and hence this dispute between the petitioner and the management is an industrial dispute. The management failed to comply with the statutory provisions laid down under Sec. 25F and 25G of the I.D. Act. He is entitled to be reinstatement with all back wages. He approached the Asst. Commissioner of Labour Rajahmundry with their grievances and submitted a petition No. 1 of 1995. He was advised to submit his claim before this court. Hence the action of the management is not legal and valid

3. For that the management filed a rejoinder denying the allegations made in the petition. It submitted that Kothala Venkata Reddy died on 13-2-95 but it is not known to this respondent personally. After his death the workman was appointed as Care taker with effect from 4-2-95 on compassionate grounds on the same terms and conditions as applicable to late Venkata Reddy. No appointment order or termination order or confirmation order was issued to the workman and since the question of issuing such orders does not arise as the workman was not at all engaged by it. The work of caretaking was previously entrusted to a contractor who in turn, used to maintain the same by engaging his own contract labour. The establishment is registered under the contract Labour (Regulation & Abolition) Act, 1970. This respondent never appointed any one directly for the caretaking work. It is the duty of the contractor to keep a watch on the valve stations by his workers and in case of any leakage or any other emergency to report the same to the respondent for necessary action. The contract initially was awarded to Sri K. Venugopala Rao on 1-7-91. Subsequently the work of Totharamudi station along with 19 other S.V. Stations was awarded to Sri K. Venugopala Rao from 16-1-93. After the expiry of the contract of Sri K. Venugopalar Rao this management awarded fresh contract to M/s Maheshwari Security Services, a DGR sponsored ex-Servicemen agency w.e.f. 1-4-95 and the said agency engages its own personnel who are also ex-servicemen as caretakers of S.V. Stations. The engagement

of the workman's father and after his life time the petitioner as contract labour by the previous contractor Sri K. Venugopal Rao at any of the S.V. stations would not create any right in favour of the workman against this management to claim employment. He was never engaged by this management and consequently the question of removal from service did not arise. Hence there are no merits in the petition and the petition is liable to be dismissed.

A dispute was raised before the Asst. Commissioner of Labour and the workman was advised to approach this court and hence he filed this petition under Sec. 2A(2) of the I.D. Act. Since there is no enquiry held or no material is there with regard to the appointment and removal of the workman opportunity was given to both management and the workman to lead evidence. WW1 and MW1 are examined before this court and Exs.M1 to M7 are worked for Management.

5. The points for consideration are:

- (1) Whether there is a relationship employer and employee between the management and the workman.
- (2) Whether the workman is entitled reinstatement in his contention is accepted as the is a workman of management?

6. As per the contention of the workman his father was working as caretaker with the management at Totharamudi point on a monthly salary of Rs. 600/- in 1992 through ONGC contractor one K. Venugopalarao. His father expired in 1995 February and on compassionate grounds that job was given to him on a monthly salary of Rs. 600/- (six hundred only) and he worked for three months till May, 1995. The management without assigning any reasons removed the workman from service. One Satyanarayana was appointed in his place. No notice was given or compensation was paid in lieu of notice. In his cross-examination he stated that his father worked with contractor Venugopalarao. His father was not given appointment by the management but only by Venugopalarao. He denied that contract works will be given to the contractor and Venugopalarao was one of the contractors. He admitted that he was also given appointment by the Venugopalarao.

Whereas MW1 Law Officer of the management deposed that he was incharge of legal matter as an office with the management. They have section-wise valve points to supply gas to various distributors and monitoring the pressure to gas and of deduction there is any leakage in the pipe line at any point in the One Venugopala rao was appointed for care taking of the point at the section. He obtained licence under the Contract Labour Act which are filed M1 and M2. This workman was never employed by them. The

contract with Venugopalarao was discontinued hence there is no excess of relation ship between the management and this workman. The management is not liable to any appointment of the workman. Venugopalarao is a contractor and he himself appointed/engaged the workman as contract labour to attend their duties. The management is never appointed the workman.

7. As could be seen from the evidence on record the petitioner himself admitted that his father was appointed by a contractor Venugopalarao and the management has filed Exs. M1 and M2 showing about the registration of that contractor from the Contract Labour Act. In this case the workman has got service on his own account but that is also on the death of his father and on compassionate grounds he was engaged. If that is the case atleast at the time of compassionate appointment some kind or order should have been made showing he is a workman who was given such appointment. Unfortunately, the workman who seeks relief having got appointment from a contract labour even as per his case did not choose to implead that contractor as a party to the petition and so that if any violation of rule is there under the contract labour Act, to treat the management as a principal employer, as liable for the infraction of duties by its contractor under the contract Labour Act. On the other hand, the management itself filed the documents pertaining to registration of the contractor under the Contract Labour Act. It is not a case where the earlier workman who is his deceased father, was engaged by the contractor were removed by the management. As per the directions of the Government of India under which the respondent is functioning as per the guidelines of the Government with regard to the appointment of security personnel in PSUs from ex-servicemen security agencies sponsored by DGR. So the question of removal of the workman by the management is not established and the relationship of the workman and the management is also not established in this case. When the relationship of workman and the management is not established in the absence of any proof except the workman's self serving contentions, it is very difficult to accept the contentions of the workman that he is a workman of the management and entitled to be benefits as claimed by him. Considering these aspects it is held that the petitioner is not entitled to any held relief as claimed by him.

8. In the result, the workman is not entitled to any relief and the petition is dismissed passing Nil Award deciding against the workman.

Dictated to steno, transcribed by her given under my hand and seal of the court this the 8th day of November, 1999.

C. SAMBASIVA RAO, Presiding Officer

Appendix of Evidence

Witnesses Examined For

Workman : WW1 K. Rajaratnam

Management:

MW1 Venkatesh

Documents marked for workman : Nil

Documents marked for Management:

Ex.M1 3-12-93 Letter addressed to K. Venugopala Rao contractor by the Asst. Labour Commissioner (Control) Visakhapatnam.

Ex.M2 14-12-94. -do-

Ex.M3 4-2-94 Office Memorandum issued by Ministry of Defence.

Ex.M4 11-11-94 Office Memorandum issued by Ministry of Industries.

Ex.M5 31-8-94 Letter addressed to the Management by the Director Employment.

Ex.M6 2-1-95 Inter Office Memo issued by the Management.

Ex.M7 1-3-95 Letter addressed to the M/s Maheshwari Security Agency by the Management.

Dated : 13th day of December, 1999

I.T.I. D. No. 17/97

This Petition is filed Directly Under Sec. 2A (2) of the I. D. Act.

Between :

K. Chandra Sekharam.

S/o Late Rammurthy,

Aripaka, Via-Sabbavaram,

Visakhapatnam.

.. Workman

And

The Chairman,

Visakhapatnam Port Trust,

Visakhapatnam.

.. Management

This dispute coming on for final hearing before me in the presence of Sri P. Venkateswara Rao, Advocate for workman and of Sri G. V. Reddy, advocate for management, upon hearing the arguments of both sides and on perusing the entire material on record, the court passed the following :

AWARD

(1) This is a petition filed by a workman under Sec. 2A (2) of the Industrial Disputes Act, 1947 seeking the relief of reinstatement with back wages and continuity of service.

(2) As per the claim of the workman he has been working with the management from May, 1982 without any remarks. He has never been issued any memo or charge sheet for any negligence in performing his duties. While he has been working as a crane operator in 1997, he has fallen from a mobile crane MC 16 and he has sustained injuries to his head and other portions of the body and due to head injury he has been advised rest as his status was described in clinical terms as Non-compose martin and as such he has been undergoing prolonged medical treatment. Added to that the management who is perfectly aware of the accident did not choose to pay the compensation nor deposited the same before the authority under the workman's compensation Act. Further his daughter has been kidnapped in the year 1992 and he is informed the same on 8-2-92 to Chief Mechanical Engineer about his problems. The management issued a memo on 30-6-96 alleging that he remained absent unauthorisedly from 22-1-96 till the date of charge sheet dated 27-3-96. He submitted his explanation stating that he has been undergoing treatment for the injuries sustained by him during the course of employment and that he has not

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापट्टनम पोर्ट ट्रस्ट के प्रबंधन के संघर्ष निरोधकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, विशाखापट्टनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-8-2001 को प्राप्त हुआ था।

[सं एच-11021/1/2001-आई आर (एम)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 24th August, 2001

S. O. 2418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management, Visakhapatnam Port Trust and their workman, which was received by the Central Government on 20-8-2001.

[No. H-11021/1/2001-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL
CUM LABOUR COURT : VISAKHAPATNAM

Present : Sri C. Sambasiva Rao, M. A., B. L.,
Chairman & Presiding Officer.

violated the regulation nor committed the misconduct. An enquiry was conducted on 30-9-96 and he received the copy of the same. The enquiry officer was biased against the workman and he adopted a procedure of questioning the recording the answers. In spite of such pitiable conditions which is within the knowledge of respondent has chosen to terminate the services of workman by office order dated 30-1-97, which is illegal and unjustified.

3 For that a rejoinder is filed by the management denying the allegations made in the petition. It denied the allegations of sustaining injuries by the workman. It submitted that the workman met with an accident during his working hours, he was granted hospital leave for a period of three months five days from 31-1-95 to 4-5-95 was recommended by the Medical Officer. The CMO has issued fit certificate to the workman has specifically stated that there is no loss of earning capacity and as such the payment of compensation under workman's Compensation Act does not arise at all. He was removed from service for his unauthorised absence. He preferred an appeal stating that his daughter has been kidnapped and the same was allowed and his penal was set aside by the disciplinary authority on 7-10-93. It denied that he has no one at his home to send his leave application and intimate about his sickness and due to his domestic problems he is keeping indifferent health is not a ground for his absence. He was charge sheeted for major penalty on 30-3-96 for long unauthorised absence from duty from 22-1-96 to till the date of drafting the charge sheet i.e. 27-3-96 without leave which is treated as unauthorised absence and for the same the management's work was badly dislocated. He submitted his explanation on 19-4-96 even though he acknowledge the receipt of the charge sheet on 6-4-96 and denied the charges levelled against him when the disciplinary proceedings were pending he again absented from duty unauthorisedly from 17-5-96 to 8-8-96 and as such the disciplinary authority has remitted the case for departmental enquiry dt. 28-8-96 into the charges. In the preliminary enquiry the workman admitted his guilt and signed the proceedings. He did not state anything about the same in writing even at the time when the enquiry report was made available to him. On the basis of the material and the preliminary enquiry report submitted to it, the disciplinary authority finally removed the workman from service w.e.f. 30-1-97 vice proceedings dated 30-1-97. He preferred an appeal, which was rejected by the chairman, Port Trust. Hence the action of the management is quite justified and reasonable. The petition is liable to be dismissed.

(5) On 17-8-99 after perusing the material papers available on record this court held that there adequate opportunity given to the workman and the procedure followed in the domestic enquiry is not vitiated. Hence arguments were submitted U/S 11A of the I. D. Act.

(6) The points for consideration are :

- (1) Whether the workman is liable to be reinstated treating that punishment was given to him illegally and liable to be set aside ?
- (2) If the conclusions drawn in imposing the punishment is correct whether it is a case where this court has to interfere with the findings given by the management treating the quantum of punishment imposed is beyond proportion to the infraction of duties by the workman ?
- (3) Whether the workman is entitled to reinstatement with back wages and continuity of service as contended by him ?

(7) Ex. M 1 shows the absence of the workman from duty from 22-1-96 till to date i.e. 5-2-96 without any leave or sick. The letter is by Asst. Executive Engineer, who is the controlling officer of the workman. Again under Ex. M 2 another letter was sent along with the attendance particulars from 1-1-95 to 5-3-96 the absence of the workman. It shows in the column of leave or sick is 232 days. There upon a memorandum dated 30-3-96 was issued where in the present petitioner is directed submit within 10 days of the receipt of the memorandum on the allegations of the charge. The charge is that he was absenting from duty unauthorisedly from 22-1-96 till the date of drafting the charge sheet on 27-3-96, without submitting any leave application or sick certificate causing much difficulty in making alternative arrangements in his place. It is also mentioned that he was censured thrice and imposed with minor penalty once and major penalty once for similar offence of his unauthorised absence to duty but there is absolutely no change in his attitude and that shows his gross misconduct, unbecoming of a public servant and as such he failed to maintain absolute deviation from duty. Ex. M 4 is acknowledgement. Ex. M 5 is the letter addressed to the Chief Mechanical Engineer, by the workman in which he expressed that he was not given opportunity to prove about earlier punishment. Though it is cited that those punishments are made for the purpose of this case but the present charge is as such has nothing to do with the earlier punishments. The persons

who are going to be examined are also indicated in the annexure to the charge under Ex. W 3. For that the workman submitted an explanation telling about his injuries received by him in 1994 claiming himself he is a disciplined man and due to the mental condition i.e. temporary Insanity having non composemantix, he is not in a position to perform his duties. That cannot be considered as willful absence from duty from 21-1-96 to 18-4-96 treating this cause as special one and he asked for reinstatement into service where he will prove he is noble employee, to the organisation. That letter is dated 19-4-96 under Ex. M 5. He was intimated about the enquiry through a letter dated 28-8-96 under Ex. M 6 and intimating the persons who are going to be examined and the persons who are to be present in case of management witnesses. Then this workman was examined, where he was put questions whether he wanted to accept the charges levelled against him and to that he stated that he accepted the charges levelled against him. So the enquiry was closed. The presenting officer submitted that he has no brief to submit anything more. After that a report was sent along with the enquiry report. The proceedings on the charge sheet issued to him, is marked as Ex. M 8, Ex. M 9 which shows supply of copy of enquiry report. On that on 14-12-96 he submitted an explanation to which he admitted about receiving enquiry report. He reiterated as accepted due to the domestic problems and his daughter has expired and having calamity in the house and he could not attend his normal duties regularly and could not keep his mind steady on the duties and also his health condition is not well, due to the calamity. He sought for excusing him and permit him to attend his regular duties and asked to be executed. On proceedings issued by the disciplinary authority the Chief Mechanical Engineer ordered removal of the workman from service and he was granted permission to appeal within 45 days, which is filed under Ex. M 11. On that a statement was submitted in the appeal seeking reinstatement where he mentioned that he submitted sick certificate from 17-5-96 to 28-8-96. He stated that he has got children and having no property. He got long sickness due to accident. He had so many loans. He requested to consider his representation on humanitarian consideration. Ex. M 13 is the proceedings of the dismissal of the workman w.e.f. 30-1-97 for his unauthorised absence. Ex. M 14 is enclosing letter. The earlier proceedings with regard to the censures imposed on 26-4-85 is under Ex. M 15 & Ex. M 16 indicates another punishment was imposed on 24-9-88 which was marked under Ex. M 16 where another censure was imposed

against him. Another punishment was imposed on 25-9-89 where his pay was reduced for two years under Ex. M 17. On 25-4-91 six months annual increments was withheld for his unauthorised absence from duty. On 10-6-92 his annual increment next due, is withheld for a period of two years without cumulative effect, of his future increments. Under Ex. M 20 dated 10-4-93 his annual increment is withheld for a period of one year without cumulative effect, of his future increments besides denial of LTC facility for the current and future block periods i.e., 1990-93 & 194-97 he was removed from service in the order dated 2-9-93. On that appellate authority passed on order dated 7-10-93 under Ex. M 22 the order earlier passed under Ex. M 21 set aside and he was reinstated. The period from the date of removal to his reinstatement was treated, as not on duty. Another punishment of lenient view taken for absence was also imposed on 24-11-95. On 19-4-96 under Ex. M 24 though the workman was reported to duty on 19-4-96 he has not applied for any leave for the period from 22-1-96 to 18-4-96. Another report was submitted under Ex. M 25 and on 29-5-96 for absencing duty from 17-5-96 to 29-5-96 without applying any leave. On 13-6-96 a notice was issued to the workman about his unauthorised absence from 17-5-96 till to date. It is subsequent to the present proceedings dated 13-6-96 and he was asked to immediately report to duty which was reported by him under Ex. M 26. Ex. M 28 is further report sent about his not reporting duty from 17-5-96 without any leave. The Chairman, Port Trust imposed order passed on 3-7-97 refusing to interfere the punishment imposed on the workman, and dismissed the appeal. The letter dated 14-3-97 mentioned that enquiry officer has no right to mention all previous cases in his report.

Thus, on a careful perusal of the entire evidence available on record it is clear that even at the stage of enquiry the workman never questioned about his unauthorised absence which was opined by the authority as illegal and unauthorised absented. He only pleaded for mercy. It is no doubt proved that earlier conduct and subsequent conduct was considered in this case. It is not as if he was not apprised of the earlier conduct and any way all the punishment imposed him. So it is a clear case where the workman himself admitted about his unauthorised absence and the conclusions drawn with regard to the illegal and unauthorised absence by the disciplinary authority which was accepted by the appellate authority is not in any way vitiated in coming to the conclusion of imposing penalty. The fact remains that in 1994 he received injuries by falling from the crane and he got upset in his life but the fact that the fall does

not in any way effected his mental position, as contended by the management which is not seriously disputed by the workman by producing any evidence to the centre in the sense the treatment undergone by him for his mental illness. So in normal course the explanation of the workman cannot be accepted. But the fact remains the workman worked with the management right from 1982 till he was removed from service. No doubt he has got number of punishments earlier since he has got children and if it is only a case of absence but not a fraud or any grade allegations of misconduct against him in discharging his duties, this court feels that it is a fit case where he has to be reinstated, but considering the facts he cannot be granted back wages and the period of absence prior to the enquiry until reinstatement which to done from the date of passing this award till his reinstatement with in a period of one month from the date of this award he shall be treated with no pay no work for the purpose of reckoning the seniority. There shall be continuity of service, but it does not absorb him from the earlier punishments which are already imposed against him in accounting the seniority. Accordingly the order of removal is modified setting aside the punishment of removal and directing the management to reinstate the workman into service within one month from the date of award without back wages but with continuity of service for reckoning the seniority alone. But the management is at liberty to consider in reckoning the seniority about earlier punishments imposed prior to this removal order. In the circumstances of the case there shall be no order as to costs. Dictated to steno transcribed by her given under my hand and seal of the court this the 13th day of the December, 1999.

C. SAMBASIVA RAO, Presiding Officer
APPENDIX OF EVIDENCE

Witnesses Examined For

Workman : None Management : None

Documents marked for workman : Nil.

Documents marked for Management :

- Ex.M1 5-2-96 Letter addressed to Chief Mechanical Engineer by Assistant Executive Engineer.
Ex.M2 8-3-96 -do-
Ex.M3 30-3-96 Memorandum of charge sheet.
Ex.M4 6-4-96 Postal Acknowledgement
Ex.M5 19-4-96 Explanation to Memorandum of charge sheet.
Ex.M6 28-8-96 Appointment of Enquiry Officer.
Ex.M7 30-9-96 Proceedings relating to preliminary domestic enquiry.

- Ex.M8 3-12-96 Enquiry officer's report.
Ex.M9 9-12-96 Letter addressed to the workman by Chief Mechanical Engineer.
Ex.M10 14-12-96 Letter addressed to the Management by workman.
Ex.M11 30-1-97 Proceedings of the Chief Mechanical Engineer.
Ex.M12 14-3-97 Letter addressed to the management by workman.
Ex.M13 3-7-97 proceedings of the Chairman, Visakhapatnam Port Trust.
Ex.M14 10-7-97 Letter addressed to the workman by Management
Ex.M15 26-4-85 Proceedings of the Chief Mechanical Engineer.
Ex.M16 24-9-88 Proceedings of the Chief Mechanical Engineer.
Ex.M17 20-5-89 -do-
Ex.M18 25-4-91 -do-
Ex.M19 10-6-92 -do-
Ex.M20 10-3-93 -do-
Ex.M21 2-9-93 -do-
Ex.M22 7-10-93 proceedings of the Chairman Visakhapatnam Port Trust.
Ex.M23 24-11-95 Proceedings of the Chief Mechanical Engineer.
Ex.M24 19-4-96 Letter addressed to Chief Mechanical Engineer by Assistant Executive Engineer.
Ex.M25 29-5-96 -do-
Ex.M26 13-6-96/5-7-96 Letter addressed to workman by Chief Mechanical Engineer.
Ex.M27 Unserved postal cover (opened)
Ex.M28 9-7-96 Letter addressed to the Chief Mechanical Engineer by Asstt. Executive Engineer.

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2419.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में, केन्द्रीय सरकार विद्यावाचस्पत्यों के प्रबंधन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय विद्यावाचस्पत्यों के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-7-01 को प्राप्त हुआ था।

[स. ए. व. 11021/2/2001-आई.आर. (एम.)]

जी.एम. के.वि.डि. अवर गवर्नर

New Delhi, the 24th August, 2001

S.O. 7419.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute, between the employers in relation to the management of Visakhapatnam Port Trust and their workman, which was received by the Central Government on 20-8-01.

[No. H-11021/2/2001-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT VISAKHAPATNAM

Present : Sri C. Sambasiva Rao, M.A., B.L., Chairman
and Presiding Officer.

Dated : 9th day of November, 1999

I.T.D. (C) 33/97

This petition is filed directly U/s 2A(2) of the I.D. Act.
Between :

Kasarapu Gopala Rao

D.No. 26-32-7, Ramakrishna Street,

Near Rama Mandiram,

Visakhapatnam-530 001.

.... Workman

AND

Management,

Visakhapatnam Port Trust,

Visakhapatnam - 530 035. Management

This dispute coming on for final hearing before me in the presence of Sri B.V. Rao, Authorised Representative for workman and Sri B. Gowri Sankar Raju, advocate for management, upon hearing the arguments of both sides and on perusing the entire material on record the court passed the following:

AWARD

1. This is a petition filed by a workman under Sec. 2A(2) of the Industrial Dispute Act, 1947 seeking the relief of reinstatement with back wages and continuity of service.

2. As per the claim statement of the workman he was an ex-workman under the management, until summarily terminated on 26-5-81, without assigning any reasons. His last drawn salary is Rs. 1600/ per month. His father (late) Kasarapu Tatayya was a permanent employee under the management and relevant times, he was working as Carpenter Grade-I and he expired while in employment on 15-12-79. His mother requested the management to provide employment to him, as is the usual practice in existence in the management passed orders conceding

his mother's request. He was called for interviews and medical tests and it was conducted according to rules. His lien of employment is qualified by virtue of his late father's service in this a management. Even though he was sufficiently qualified for the post of messenger he was discriminated and denied that post which was on permanent basis and on the other hand he was selected for the post of Shore Kahalassi and enrolled in employment on 11-12-90. He was terminated on 26-5-81, which is illegal and arbitrary. He approached employees union and later the management offered him fresh appointment on 24-8-83 in the post of Railway Khalasi/Hamal in the pay scale of 325-461. Since he have raised industrial dispute, the management refused to permit him to join the said post. Thus, the management discriminated and denied him justice for second time. He approached conciliation officer and there it was failed and the proceedings were closed. He filed writ petition No. 13263/84 and writ appeal No. 1535/1984 before Hon'ble High Court, which were dismissed. A special leave petition was rejected by Supreme Court as Time barred on 10-8-93. Hence the action of the management is not justified and illegal.

3. For that the management filed a rejoinder denying the allegations made in the petition. It submitted that while working as casual Khalasi the workman's services were terminated w.e.f. 3-5-81 as he was found unfit for retention on the basis of his gross misconduct of attempted theft of Port property. The rules and regulations are applicable to the regular employees but not to the casual employees. The management conducted necessary enquiries before taking action to terminate the services of the workman. The management requested to furnish the remarks of the petitioner for fresh appointment as a Railway Khalasi and previously the workman raised industrial dispute and the same was not referred for adjudication by the Central Government, a writ petition WP 13263/84 and W.A.No. 1535/84 also filed by him but the dispute could not be referred for adjudication. An SLP was also filed before Supreme Court and the same was also dismissed as it is time barred. Hence the present petition is not maintainable under law as there is no reference by the Central Government. Hence there are no merits in the petition and the petition is liable to be dismissed.

4. For that a rejoinder is filed by the workman denying the allegations of the management. He submitted that the management has come up with the allegations of theft after more than one year and he objected the same and demanded to prove the allegation of theft. The management ought to have resorted to proper procedure in observance of principles of natural justice or the procedure as laid down in the service regulations of the

establishment, had the allegation been true and fact. Its silence for all these years is substantial ground that it acted malafidely in terminating the workman's services. This dispute is not at all time barred. The maintainability of petition, even after the respondent is Central Government body has been already settled by the court of law, which law will be presented in the course of enquiry.

(5) Since there is no adequate record and domestic enquiry report is not there, enquiry was held before this court on the request of the management. WW1 and MW1 are examined. Exs. W1 to W12 for workman and Exs. M1 to M7 for management are marked.

(6) The points for considerations :

- (1) Whether the earlier proceedings alleged by the petitioner precluding him from raising this dispute before this court once again ?
- (2) Whether the petitioner is removed without following the procedure under Sec. 25F of the I.D. Act or any other provisions of Law in the I.D. Act and whenever he is entitled to the reliefs as claimed by him ?
- (3) Whether the workman is entitled to the relief of reinstatement with back wages and continuity of service ?

(7) As per the case of the workman on compassionate grounds he got the job as his father died while working with the management as Carpenter. He was in a bad under Ex. W1 to apply for job and so he applied he same. He was called for interview under Ex. W2 and another call letter Ex. W3 for the posts of messenger and Khalasi respectively. Later he provided with a job of Khalasi under Ex. W4 and he joined on 16-2-80 along with him 9 persons were appointed. Some demand was made to pay amount and some of the employees paid the amount and their services were made permanent. But he expressed his inability to pay and his employment was stopped to him under Ex. W5, without any enquiry. Then he approached the union and they approached ACL. Again he was issued call letter pending the proceedings by the management for appointment of Railway Khalasi/Hamali under Ex. W7. On seeing this letter the ACL closed his proceedings and refused to refer the matter. Then he filed a writ and division bench passed order holding that there is no need of interfering with the order by the Asst. Commissioner of Labour under Ex. W8. Then he approached Supreme Court which was later dismissed stating that the petition is time barred, which is under W9. The recruitment service seniority rules are Ex. W10 and W11. He denied that he was appointed only as casual labour upon trust. He denied

that he committed theft of paint tins and on the same reason, he was removed on 23-5-91. He do not know about the sending a letter under Ex. M1. He also denied that the management conducted enquiry and after that only he was removed.

Whereas MW1 Sr. Asst. CME depot deposed that the workman was appointed as casual labour on daily wages on compassionate grounds on the account of his father's death. While he was going away one liter of grey paint central security force caught him and disciplinary proceedings lodged against him on 23-5-81 and on that ground he was removed from service since he was a temporary employee working on daily wages. They never issued orders to the workman on permanent basis. He said that he does not know personally about the nature of appointment given to him. He deposed in his cross-examination that he does not have any personal knowledge about this matter.

Whereas MW2 personal officer of the management deposed that he knows the facts of the case. The workman was appointed as Khalasi in the management on the account of his father's death on compassionate grounds. He was found stealing a tin of paint and caught by Central Industrial Security Force Personnel. He admitted his mistake and on that a letter was addressed by Asst. Commandant of Central Industrial Security Force to the management under Ex. M2 dated 11-5-81. The seizure memo of stolen property i.e. Ex. M3. The confession statement given by workman is M4. Since he is a casual Khalasi his services were terminated under Ex. M5. He filed a writ petition before High Court of A.P. which was dismissed under Ex. M6. The writ appeal preferred is also dismissed under Ex. M7. He denied that the workman was removed without following the rules and regulations of the company. He denied that no domestic enquiry was held.

Ex.W1 is the letter submitted by the mother of the workman about the death of Sathayya on 15-12-79 and a request was made for appointment of her son, in the Port G. Trust. On the basis of that a letter was issued under Ex. 2 by the management to submit all original certificates of the workman on 10-7-80 at 14.00 hrs. Similarly such letter is sent on 21-11-80 under Ex.W3. Ex. W4 is another letter sent to him on 11-12-80 to attend office immediately with all original certificates. Under Ex.W5 the workman was intimated that his services were terminated in which it is simply mentioned that the services of Sri Kasarapu Gopala Rao, S/o. Late Sathayya casual labour Kahalasi (Shore) in E/M Section are terminated with effect from 23-05-81. Ex.W6 notice given for conciliation proceedings marked to the workman along with notice given to the Chairman. Port

Trust also. Ex.W7 is a notice given to attend to the office of the traffic manager, Visakhapatnam Port Trust on 2-9-83 at 10.30 hrs. Obviously this is reference to subsequent opportunity given for the recruitment with notice dated 24-8-83. Ex.W8 is the writ appeal proceedings in 1535/84 dismissing the appeal. Ex. W9 is the dismissal of SLC preferred by the workman. Ex.W10 is the rules of recruitments, seniority and promotion regulations, 1964 which are applicable to class I, class II, class III and class IV posts under the board but shall not apply to those posts the incumbents of, which are the Heads of departments. In the definition of 2(b) appointing authority in relation to any grade or post means the authority empowered under VPT employees Reg., 1964 to make appointments to that grade or post. Under clause 2(e) direct recruit means a person recruited on the basis of a competitive examination or interview or both by the staff selection committee, duty post means any post of a particular type whether permanent or temporary, employee means an employee of the board. Under clause (1) permanent employee means in relation to any grade or post means an employee who has been substantively appointed to a substantive vacancy in that grade or post. On a glance of entire rules it does not show whether they are applicable to casual labour appointed by the management. Ex.W11 is recruitment rules which shown there are 9 departments in the VPT and in mechanical department (class III and IV posts) are mentioned. Under VPT Temporary Service Regulations, 1964 it is mentioned under clause 1(3) they shall apply to all persons who hold a post under the Board but who do not hold a lien on any post under that Board. These regulations shall not, however, apply to employees engaged on contract, employees not in whole-time employment, employees paid out of contingencies, persons employed in extra-temporary establishments, if any, or in work charged establishments, and such other categories of employees as may be specified by the Board. Temporary service means officiating service in a temporary or in a permanent post under the board. The termination of services of employees not in quasi-permanent services the service of a temporary employee, who is not in quasi-permanent service, shall be liable to terminate at any time by notice in writing given either by the employee to the appointing authority, or by the appointing authority to the employee.

The period of such notice shall be one month unless otherwise agreed to by the appointing authority and by the employee. Provided that the service of any such employee may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowances for the period of the notice, or as the case may be for the period by which such notice falls short of one month or any agreed longer period.

These rules do not indicate about the casual workmen appointed. So there is some substance in the contentions by the management, these rules are not applicable to the workman. M1 is order of termination w.e.f. 23-5-81 on account of misconduct and about the theft of port property and he was found unfit for retention in service. Ex. M2 is letter addressed to the Chief Mechanical Engineer with regard to apprehension of the workman-casual labour. It is mentioned that on 2-5-81 around 12.30 hrs. their SGs have apprehended the workman casual labour at docks main gate while he was carrying about 1 liter gray paint in a tin unauthoredly and sought for departmental action. A seizer memo is marked under Ex. M3, Ex M4 is statement given by workman about his apprehension with paint in a tin and was apprehended Ex. M5 is the order passed of termination of service w. e. f. 23-6-81 afternoon and no reasons are stated in this Ex. M6 is the order of High Court in Writ Petition No. 13263/84 where the reference which is sought to be made was rejected by the Government which was questioned by the workman, it is observed that there are no malafides in the action of the management in dispensing with the casual services of the workman in as much as he was caught red handed while carrying away unauthoredly a tin of gray paint and that he has also confessed his guilt. It is held that discretion exercised by the management is not arbitray.

As could be seen from the evidence on record even the High Court has taken cognigence on the issue with regard to theft and consequent upon theft his services were terminated basing on the confession statement and seizer memo of the sales property submitted by the cognigence. It is not a case where the workman was indicated for the first time with the defence by the management, in as much as he is aware of such observations made by the High Court, accepting the contentions of management.

Under Sec. 25F no workmen employed in any industry who has been incontinuous service for not less than one year under an employer shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice. The workman has been paid at the time of retrenchment compensation which shall be equivalent to fifteen day's average pay for every completed year of continuous service or any part thereof in excess of six months and notice in the prescribed manner is served on the appropriate government or such authority may be specified by the appropriate government by notification in the official gazette. Under Sec. 25B definition of continuous service of the one year at clause 2 (ii) two hundred and forty days, in case of regular establishment. In this case on hand

admittedly the workman recruited in the month of December, 1980 and he was removed from service in the month of May, 1981 which are not disputed. Since the workman himself admitted that he was removed from service in the month of May, 1981 and he appointed on 16-12-80, he worked only for 6 months 15 days as a casual workman. The final order passed under Ex. M4 does not disclose or assigns any reason for termination but a simple order of termination was issued. So the observations show the workman did not work for one year or 240 days with the management and so that it may be held that he is not entitled to the benefits of Sec 25F of the I. D. Act. The learned counsel for the workman relied upon a reported judgement of 1999

(2) Andhra Weekly Reporter 38 SC in Radhey Shyam Gupta Vs. U. P. State Agro Industries Corporation Limited and another their Lordships K. Venkateswami & M. Jagannadha Rao, JJ observed that there are two modes of termination of service noticed and if the master gathers some prima facie facts but does not wish to go into the truth but decides not to continue a dubious employee, it is not dismissal but termination simpliciter. If an enquiry is held, and the employee is not heard the enquiry is the foundation and the termination would be bad. In the case there in the enquiry officer examined witnesses recorded, their statements, gave a finding regarding acceptance or bribe by the petitioner employee. It is held that it will be a case of motive if the master, after gathering some prima facie facts, does not really wish to go into their truth but decides merely not to continue a dubious employee. The master does not want to decide or to direct a decision about the truth of the allegations. But if he conducts an enquiry only for purpose of proving the misconduct and the employee is not heard it is a case where the inquiry is the foundation and the termination will be bad. The counsel for the workman argued that these facts are applicable to the present case. Since in this case the basis for termination is the report given by the Central Industrial Security Authorities and without even enquiry into the matter basing on so called confession and seizer memo he was removed from service and such termination is illegal. But on a consideration of the contentions of the learned counsel for the workman this court is unable to accept that contentions. In the present case on the basis of the material available a simple termination order was issued under Ex. M4, it is not a case where an enquiry was held but the workman's services were terminated on the basis of the complaint given by the security officials. Hence the ratio of the judgement is in any way helpful to the present case. Another judgement of AIR 1986, Supreme Court 1680-1986 LAB-IC 1191 in S. Govindraja Vs. K. S. R. T. C and Another in which it is observed by

their Lordships C. Chinnappa Reddy and K. N. Singh JJ Temporary/Badli appointment given to candidate whose name was selected in select list in accordance with regulations such candidate gets right to be considered for appointment as and when vacancy arises and termination of such candidate without giving him opportunity of explanation held unjustified. Even this judgement is not in any way helpful to the present case of the workman herein since it is not a case of appointment of whom on the basis of selection held as per the recruitment regulations. Hence the principles laid down in this case are also not applicable to the present case.

Though the principle of resjudicata is not strictly applicable as in CPC still the observation made accepting the contentions of the management with regard to the infraction of duties which led to discharge from service of the workman was taken cognizance by the High Court and of the workman's committing there is no need to interfere with these facts, which served as a background for removal from service treating his services as not satisfactory and a simple order is issued terminating the services of the workman without giving any reasons or in stigma. So those observations would have a binding effect on this court.

The question of following procedure u/s 25F of the Industrial Disputes Act in removing him from service in view of the findings given supra as the workman is worked less than 6 months and not even worked for 240 days continuously in a year, while enjoying the post as a casual labour, appointed on compassionate grounds, on account of the death of his father.

(8) In view of the findings given above, the petitioner is not entitled to any relief sought for and the petition is dismissed passing nil award deciding the matter against the workman.

Dictated to steno transcribed by her given under my hand and seal of the court this the 9th day of November, 1999.

C. SAMBASIVA RAO, Presiding Officer

APPENDIX OF EVIDENCE IN I.T.I. D. No. 33/97 WITNESSES EXAMINED :

For Workman : WW 1 : K. Gopala Rao,

For Management : MW 1 : M. Subbaiah Sastry,
MW 2 : S. Murtya Rao.

DOCUMENTS MARKED :

For Workman : Ex. W 1 : 12-5-80 : Letter to K. Sattiyyamma by management.

Ex. W 2 : 2-7-80 : Letter to K. Gopalarao by VPT.

Ex. W 3 : 21-11-80 : -do-

Ex. W 4 : 11-12-80 : -do-

Ex. W 5 : 21-5-81 : Termination order of the workman.

Ex. W 6 : 23-7-83 : Letter to management by ACL (C) VSP.

Ex. W 7 : 24-8-83 : Letter to the workman by management.

Ex. W 8 : 27-11-84 : Xerox copy of the order in WA No. 1535/84.

Ex. W 9 : 27-11-84 : Xerox copy of the proceedings in CC No. 21456.

Ex. W 10 : Xerox copy of the VPTn Employees Recruitment Regulations.

Ex. W 11 : Recruitment Rules for all posts in VPT.

Ex. W 12 : VPT Temporary Service Regulations, 1964.

For Management :

Ex. M 1 : 27-6-81 : Letter to the General Secretary VPE Union, by Chief Medical Engineer.

Ex. M 2 : 11-5-81 : Letter to the management by ACL.

Ex. M 3 : xerox copy of seizer memo.

Ex. M 4 : Letter addressed to CISF commandant by workman.

Ex. M 5 : 25-5-81 : Termination order of the workman.

Ex. M 6 : 20-9-84 : Xerox copy of the order in WPNO. 13262/84.

Ex. M 7 : 27-11-84 : Xerox copy of the orders in W. A. No. 1535/84.

नई दिल्ली, 24 अगस्त, 2001

का.आ. 2420.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार मै. स्टोन इंटरनेशनल प्रा. लि. के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में श्रम न्यायालय कोटा के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2001 को प्राप्त हुआ था।

[सं. एल.-29012/33/2000-आईआर (एम)]

वी.एम. डेविड, श्रम सचिव

New Delhi, the 24 h August, 2001

S.O. 2420.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kota as shown in the Annexure, in the Industrial dispute between the

employers in relation to the M/s Stone International Pvt. Ltd. and their workman which was received by the Central Government on 22-08-2001.

[N. L-29012/33/2000/IR(M)]

B. M. DAVID, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा /राजस्थान/ पीठामीन अधिकारी—श्री महेश चन्द्र भगवती, आर.एच.के.एस.

निर्देश प्रकरण क्रमांक : ओ.न्या. -9/2000

दिनांक स्थापित : 31-7-2000

प्रमाण : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश संख्या एल.-29012/33/2000/(आईआर) (एम)

दिनांक 23-6-2000

निर्देश प्रकरण अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद अधिनियम, 1947

मध्य

अजय बोरगावकर पुत्र श्री गोविन्दराव बोरगावकर, रामगंज मण्डी।

—प्रार्थी श्रमिक

एवं

मै. स्टोन इंटरनेशनल प्रा. लि. जर्मने चीफ एक्जीक्यूटिव श्री कन्हैयालाल पारेता, रामगंज मण्डी।

—अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री मोहन मेड़तवाल

अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री डी.सी. जैन

अधिनिर्णय दिनांक 20-7-2001

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश संख्या एल. 29012/33/2000/आईआर (एम) दिनांक 23-6-2000 द्वारा निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिस तदुत्तरान्त "अधिनियम" से सम्बोधित दिया जायेगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है.—

"Whether the termination of Sh. Ajay Bargaonkar by the management of M/s. Stone International Pvt. Ltd., Ramganjmandi w.c.f. 2-5-99 is legal and justified? If not to what relief claimant Sh. Bargaonkar is entitled and from which date?"

2. निर्देश/विवाद न्यायाधिकरण में प्राप्त होने पर पंजीकृत उपरान्त पक्षकार को सूचना विधिवत रूप में जारी की गयी जिस पर दोनों पक्षों की ओर से अपनी-अपनी उपस्थिति न्यायाधिकरण में अंकित करवायी गयी।

3. आज प्रार्थी श्रमिक स्वयं अजय बोरगांवकर मध्य अधि-
कृत प्रतिनिधि श्री मोहन मेड़तवाल एवं अप्रार्थी नियोजक
प्रबंधक श्री प्रदीप जैन मध्य अधिकृत प्रतिनिधि श्री डी.सी.
जैन ने उपस्थित होकर एक संयुक्त राजीनामा प्रस्तुत कर
यह निवेदन किया कि चूंकि लोक न्यायालय की भावना से
प्रेरित होकर दोनों पक्षों के मध्य लम्बित निर्देश/विवाद के
सम्बन्ध में आपसी समझौता सम्पन्न हो गया है जिसके तहत
प्रार्थी, अप्रार्थी से अपने मेवा में पुनर्स्थापित होने के अधिकार
को छोड़ते हुए कुल 21,000/- रु. जरिये चैक दिनांकित
20-7-2001 प्राप्त कर रहा है तथा ग्रेजुटी व पी.एफ.
आदि की राशि अलग से कार्यवाही कर प्राप्त की जायेगी।
चूंकि इस समझौते उपरान्त अब पक्षकारों के मध्य कोई विवाद
शेष नहीं रहा है, अतः समझौते/राजीनामे के आधार पर
अधिनिर्णय पारित कर दिया जावे।

प्रस्तुतशुदा राजीनामे/समझौते की विषय-वस्तु को दोनों
पक्षों को पढ़कर सुनाया, समझाया गया जो उन्होंने नहीं होता
स्वीकार किया तदुपरान्त राजीनामा तस्दीक कर शामिल
पक्षावली किया गया। चूंकि दोनों पक्षों के मध्य लोक न्याया-
लय की भावना से प्रेरित होकर उपरोक्त प्रकार का समझौता
सम्पन्न हो गया है और अब कोई विवाद शेष नहीं रहा है, अतः
समझौते आधार पर सम्प्रेषित निर्देश/विवाद को तदनुसार
अधिनिर्णय किया जाता है।

अधिनिर्णय आज दिनांक 20-7-2001 को खुले न्याया-
धिकरण में सुनाया गया जिसे नियमानुसार संपुचन सरकार
को प्रकाशनार्थ भिजवाया जावे।

महेश चन्द्र भगवती, न्यायाधीश

नई दिल्ली, 24 अगस्त, 2001

का.प्र. 2421.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय
सरकार में एसोसिएटेड स्टोन क. के प्रबंधक के संज्ञा नियो-
जकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट
औद्योगिक विवाद में श्रम न्यायालय, कोटा के पंचाट की
प्रकाशित कर्ती है, जो केन्द्रीय सरकार को 22-08-01
को प्राप्त हुआ था।

[सं. एल-29012/49/99-आई.आर. (एम)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 24th August, 2001

S. O. 2421.—In pursuance of Section 17 of the
Industrial Dispute Act, 1947 (14 of 1947), the
Central Government hereby publishes the Award
of the Industrial Tribunal, KOTA as shown in
the Annexure, in the Industrial dispute between
the employers in relation to the M/s. Associated
Stone Co. and their workman which was received
by the Central Government on the 22-08-2001.

[No. L-29012/49/99/IR (M)]

B. M. DAVID, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राजस्थान

पीठासीन अधिकारी — श्री महेश चन्द्र भगवती,
आर.एच.जे. एस.

निर्देश प्रकरण क्रमांक : श्री. न्या./केन्द्रीय/29/99

दिनांक स्थापित : 27-9-99

प्रसंग : भारत सरकार नई दिल्ली के आदेश क्रमांक एल.

29012/49/99/आई आर (एम) दिनांक 15-9-99

निर्देश अन्तर्गत धारा 10(1) (घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

गोपाल सिंह पुत्र श्री सुल्तान सिंह द्वारा श्री के.एम. यादव,
एंड. 5 जी-12 महावीर नगर-III, कोटा

—प्रार्थी श्रमिक

एवं

प्रबंधक, एसोसियेटेड स्टोन इण्डस्ट्रीज, रामगंज मण्डी जिला
कोटा

—अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि :— श्री के.एम. यादव

अप्रार्थी नियोजक की ओर से प्रतिनिधि :— श्री वी. के. जैन

अधिनिर्णय दिनांक : 11-7-2001

: अधिनिर्णय :

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश
वि. 15-9-99 द्वारा निम्न निर्देश/विवाद, औद्योगिक विवाद
अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित
किया जावेगा) की धारा 10(1) (घ) के अन्तर्गत इस
न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :—

"Whether the termination of services of Shri Gopal Singh
S/o Shri Sultan Singh cleaner by the Management
of M/s Associated Stone Industries (Kota) Ltd.,
Ramganjmandi from 27-3-97 is justified and legal
or not? If not to what relief the claimant is entitled
and from what date?"

2. निर्देश/विवाद न्यायाधिकरण में प्राप्त होने पर
पंजीबद्ध उपरान्त पक्षकारों को सूचना विधिवत रूप में जारी
की गयी जिस पर दोनों पक्षों की ओर से अपनी-अपनी
उपस्थिति न्यायाधिकरण में दी गयी एवं पक्षकारों की ओर
से अपने-अपने अस्पष्टताएँ भी प्रस्तुत किये गये।

3. आज स्वयं प्रार्थी श्रमिक गोपाल मध्य अधिकृत प्रति-
निधि श्री के. एम. यादव एवं अप्रार्थी नियोजक की ओर से
प्रतिनिधि श्री वी.के. जैन ने उपस्थित होकर (संयुक्त रूप
से एक राजीनामा प्रस्तुत कर यह निवेदन किया कि चूंकि पक्ष-
कारों के मध्य लोक न्यायालय की भावना से प्रेरित होकर
लम्बित निर्देश/विवाद के संबंध में आपसी समझौता सम्पन्न
हो गया है जिसके तहत अप्रार्थी द्वारा प्रार्थी को बतीर मुआवजा

20,000/- रु. की राशि एक माह की अवधि में अदा की जावेगी तथा पी. एफ. व प्रेस्युटी की राशि का निर्वारण अलग से किया जावेगा। यह भी तय हुआ कि प्रार्थी मुआवजे उपरान्त अपने सेवा में पुनर्स्थापित होने के अधिकार को छोड़ता है एवं भविष्य में इस विषय में कोई कार्यवाही अप्रार्थी के विरुद्ध नहीं करेगा : अतः समझौते/राजीनामा के आधार पर निर्देश, विवाद का अन्तिम रूप से निस्तारण कर दिया जावे।

पक्षकारों को प्रस्तुत शुद्ध राजीनामे की विषय-वस्तु को पढ़कर सुनाया व समझाया गया जिसे सही होना स्वीकार किया। चूंकि पक्षकारों के मध्य लोक न्यायालय की भावना से प्रेरित होकर उपर्युक्त प्रकार से राजीनामा सम्पन्न हो गया है और अब कोई विवाद पक्षकारों के मध्य शेष नहीं रहा है तथा न्यायाधिकरण की राय में भी उपर्युक्त हुआ राजीनामा उपयुक्त प्रकट होता है। अतः उक्त प्रस्तुत शुद्ध राजीनामा के आधार पर सम्प्रेषित निर्देश/विवाद को अन्तिम रूप से इसी प्रकार अधिनिर्णित किया जाता है।

अधिनिर्णय आज दिनांक 11-7-2001 को खुले न्यायाधिकरण में सुनाया गया जिसे नियमानुसार समुचित सरकार को प्रकाशनार्थ भिजवाया जावे।

महेश चन्द्र भगवती, न्यायाधीश

नई दिल्ली, 24 अगस्त, 2001

का.भा. 2422.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार न्यू मैंगलोर पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गैंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-01 को प्राप्त हुआ था।

[सं. एल-45011/2/91-आई.आर (एम)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 24th August, 2001

S. O. 2422.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management New Mangalore Port Trust and their workman, which was received by the Central Government on 22-08-2001.

[No. L-45011/2/91-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN" III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE

Dated : 13th August, 2001

PRESENT :

Hon'ble Shri V.N. Kulkarni, B.Com., LLB, Presiding Officer.

CGIT-CUM-LABOUR COURT, BANGALORE
C. R. No. 71/92

I PARTY

The General Secretary,
New Mangalore Port Staff Association,
NMPT Administrative Office Building,
Panambur,
Mangalore-575010
(Advocate-Shri D.R. Vishwanatha Bhat)

II PARTY

The Chairman,
New Mangalore Port Trust,
Panambur,
Mangalore 575010
(Advocate Smt. Indu R. Raj)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-45011/2/91-IR(Misc.) dated 13th August, 1992 for adjudication on the following schedule:-

SCHEDULE

"Whether the Management of new mangalore Port Trust is justified in altering the seniority prejudicial to Smt. H.R. Yadunandini consequent upon the reversion of Shri Ramchandra Rao from Junior Assistant cadre to clerical cadre? If not to what relief the workman is entitled?"

2. The first party workman is working with the management and it has altered the Seniority prejudicial to Smt. H.R. Yadunandini consequent upon the reversion of Shri Ramchandra Rao from Junior Assistant cadre to Clerical Cadre and therefore dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. It is the case of the workman that she was promoted to the post of Upper Division Clerk (Redesignated as Junior Assistant) from the cadre of Lower Division Clerk vide order No. 5/18/80/Admn. 4 dated 8-10-1980. She report for duty as Upper Division Clerk on 9-10-1980 forenoon and her name appears in Sr. No. 20. The list starts with Sl. No. 1 by name Sri Achuthan Koilerian and ends with Sl. No. 22 by name Sri O. Krishna Naik. In the seniority list of Group C Ministerial staff published as on 1-7-1983 circulated vide OM No. 4/23/84/Admn. 4 dated 21-8-1985 the seniority position of the workman in the cadre of Upper Division Clerk was shown at Sl. No. 111. Whereas the name of Sri Achuthan Koilerian appears at Sl. No. 93 and the name of Shri O. Krishna Naik appears at Sl. No. 113. The Seniority assigned to the workman is in the same order in which the order of promotion dated 8-10-1980 was issued. Seniority position assigned to the workman was altered subsequently as per the seniority list of Group C Ministerial Staff as on 1-7-1984 circulated vide OM No. 4/14/85/Admn. 4 dated 5-11-1986.

5. It is the further grievance of the workman that the seniority position is changed and the action of the management is not correct. In para 2 of the Claim Statement the method of promotion is stated in detail. The first party workman belongs to ST category and Shri O. Krishna Naik who was elevated to a higher position in the seniority list also belongs to ST category and therefore, the alteration of the Seniority will adversely affect the interest of the first party workman. All the grounds are stated in detail and the workman is prayed to pass award in favour of its union.

6. The case of the management in brief is as under:

7. Shri A. Ramachandra Rao, Kum. Meera Bai, Sri O. Krishna Naik, Smt. H.R. Yadunandini and Shri M. Aithappa Naik were initially working as Lower Division Clerks and

their relative seniority position in the cadre of Lower Division Clerk were Sl. 45, 67, 93, 95 and 98 as stated in the Counter and all these candidates belong to S1 community. The promotions were carried out 75 per cent by promotion on the basis of seniority subject to rejection of units and 25 per cent competitive examination limited to Lower Division Clerks. In other words three employees are promoted on the basis of seniority, one employee is promoted through competitive examination. Mr. A. Ramachandra Rao was promoted to the post of Upper Division Clerk as per order dated 2-2-1979 against 75 per cent quota, Kum. Meera Bai was promoted against 75 per cent quota as per order dated 25-9-80. Shri O. Krishna Naik was promoted against 75 per cent quota as per order dated 3-10-1980 whereas Smt. H. R. Yadunandini was promoted against 25 per cent quota by an order dated 8-10-1980. All these were promoted against the reserved vacancies for STs as per the roster.

8. Seniority List as on 1-7-1982 is stated in para 4 of the Counter Shri O. Krishna Naik was senior to the First party workman. But because she was promoted against 25 per cent quota, she was placed senior to Shri O. Krishna Naik in the category of Upper Division Clerk. Subsequently, Shri A. Ramachandra Rao was reverted to the Lower Post of Lower Division Clerk as a result of departmental enquiry by an order dated 6-1-1983. With the result of his reversion, the S. T. vacancy of Upper Division Clerk against 75 per cent quota had to be filled up from among the S.T. candidates. Shri M. Aithappa Naik the next senior employee among the S.T. candidates in the feeder cadre of Lower Division Clerk was accordingly promoted as Upper Division Clerk, thus filling the slot vacated by Shri Ramachandra Rao by an order dated 28-1-1983.

9. It is the further case of the management that with the reversion of Shri Ramachandra Rao and promotion of Shri M. Aithappa Naik, the 3 : 1 ratio had once again been re-applied and inter se seniority among the Upper Division Clerks was refixed and in that process Smt. Meera Bai occupied the place of Shri Ramachandra Rao and Sri O. Krishna Naik occupied the place of Smt. Meera Bai and Shri H. Aithappa Naik occupied the place of Shri O. Krishna Naik and all are against 75 per cent quota. Therefore, first party had necessarily to be placed at the appropriate place against 25 per cent quota cum reservation under ST category. The action of the management is correct and there is no merit in the grievance of the first party workman.

10. In view of the recasting of the seniority list consequent on reversion of Shri Ramachandra Rao, the placement of Shri O. Krishna Naik above the first party is in order and the recasting of the seniority after reversion of Shri Ramachandra Rao and promotion of Shri M. Aithappa Naik, the position in the inter se seniority as on 1-7-1984 is shown in para 7 of the counter. The first party has no valid and legal objection. The management has prayed to reject the reference.

11. It is seen from the records that on behalf of the management, MW1, Satish Nayak was examined and MW2, Manjunath Gadiyar was also examined. The documents are marked in the evidence. Against this the workman got examined herself as WW1.

12. I have read the evidence carefully, I have perused all the necessary documents and read written arguments given by both parties. With the evidence of MW1 and MW2 I am of the opinion that the seniority list is prepared in accordance with the guidelines and there is no violation of any rules. MW1 and MW2 have given detailed evidence and nothing is illicit from their cross examination so as to say that the action of the management is not correct. They have explained the correct position of seniority list and promotion of the first party workman and other officials.

13. It is clear from the records that first party workman was selected under 25 per cent quota. She was promoted on merit. Shri Ramachandra Rao was promoted on 2-2-1979 against the 75 per cent quota i.e. by seniority and Smt. Meera Bai was promoted on 25-9-1980 against the 75 per cent quota and O. Krishna Naik was promoted on 8-10-80 against the 75 per cent quota i.e. by seniority whereas the first party workman has been promoted by limited departmental examination i.e. 25 per cent quota.

14. It is also clear that in the promotion list Shri O. Krishna Naik is junior to the first party workman only because of the promotion by quota of 3 : 1 ratio which is followed as per management recruitment rules. The management has filed all the relevant rules according to them it is clear that there is no merit in this dispute. Shri Ramachandra Rao was reverted to the post of LDC in the year 1983 as penalty of having produced false caste certificate. Upon his reversion the post of UDC in the 75 per cent quota i.e. of a post filled by promotion on seniority fell vacant and that was to be filled up but the position of this workman remained undisturbed because she has been promoted under 25 per cent quota.

15. MW1 has given detailed evidence about the vacancy position of the roster system. I.e. M9 is the relevant record and with all this it is clear that there is no merit in this dispute. The management has established that it has not altered the seniority of the workman consequent upon the reversion of Ramachandra Rao from Junior Assistant Cadre to Clerk Cadre.

16. The evidence of WW1 is not sufficient to say that the seniority is changed. I have given my best consideration to the evidence before me and also perused all the relevant documents and I am of the opinion that there is no merit in this reference. Accordingly I proceed to pass the following order:

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 13-8-2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 27 अगस्त, 2001

का. आ. 2423.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. डाल्मिया मैग्नेसाइट कॉर्पोरेशन के प्रबंधन के संबंध में नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-01 को प्राप्त हुआ था।

[सं. एल-27012/3/96—आई.आर. (एम)]
बी. एम. डेविड, अवसर सचिव

New Delhi, the 27th August, 2001

S.O. 2423.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s. Dalmia Magnesite Corpn. and their workman, which was received by the Central Government on 22-08-2001.

[No. L-27012/3/96-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI
Tuesday, the 7th August, 2001

PRESENT:

K. KARTHIKEYAN, Presiding Officer

Industrial Dispute No. 407/2001

(Tamil Nadu State Industrial Dispute I.D. No. 90/96)
(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of section 10

of the Industrial Disputes Act, 1947, between the Workman, Sri C. Palanisamy and the Management of Dalmia Magnesite Corporation, Salem.)

BETWEEN

Shri C. Palanisamy, I Party/Workman

AND

The Whole Time Director, II Party/Management
Dalmia Magnesite Corporation,
Salem.

APPEARANCE :

For the Workman..M/s. P. K. Rajagopal & D.
Sivakumaran, Advocates.

For the Management..M/s. M. R. Raghavan & K. Vasu
Venkat, Advocates.

AWARD

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide Order No. L-27012/3/96-IR(Misc) dated 23-39-1996 :—

"Whether the action of the Management of M/s. Dalmia Magnesite Corporation, Salem, in terminating the services of Shri C. Palanisamy is justified? If not, to what relief the workman is entitled?"

2. This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 90/96. When it was pending there for enquiry, as per the orders of the Central Government, this case has been transferred to the file of this Tribunal. On receipt of record, from that Tribunal, the case has been taken on file as I.D. No. 407/2001 on 06-02-2001 and notices were sent by Registered Post with acknowledgement due to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 22-2-2001, with their respective parties to prosecute this case. Though the notices were duly served, neither party nor their respective representative was present before this Tribunal on 22-2-2001 and hence the case was adjourned to 9-3-2001. On 9-3-2001, the counsel for the I Party alone was present and both the parties and the counsel for the II Party/Management remained absent and there was no representation. No documents were filed on either side. The case was adjourned for enquiry on six occasions i.e. 27-3-2001, 1-5-2001, 4-6-2001, 22-6-2001, 2-7-2001 and 17-07-2001. When the matter was taken up for enquiry on 17-7-2001, the counsel for the I Party alone was present and filed a petition seeking time for filing documents. So the case was adjourned on that date to 27-07-2001 for enquiry finally. On 27-07-2001 also both the parties remained absent and the counsel on either side were also not present. As there was no representation at all on either side, the case was adjourned to this date i.e. 07-08-2001, as a last chance for enquiry.

3. When the matter is taken up today i.e. 7-8-2001, both the parties remained absent and the counsel on either side also not present and there is no representation on either side. Though this case has been posted for enquiry as a last chance, neither party appeared and represented their respective stand for this Tribunal to adjudicate the referred dispute in the absence of both the parties to put forth their respective case as parties to the referred dispute, it is decided to dispose of the matter with the available materials on record.

4. The Claim Statement filed by the I Party/Workman is as follows :—

The I Party/Workman Sri C. Palanisamy, (hereinafter referred to as Petitioner) was appointed on 6-6-1990 as an apprentice mazdoor. The Petitioner's Mother Smt. Pappa, W/o Chetty Annan was working with the Respondent as Mazdoor/Permanent Worker resigned her job on account of her ill health on 30-5-1990. She requested the Management in her letter of resignation to give appointment to her son, the Petitioner herein, on compassionate ground. Accordingly, the

Petitioner was appointed in the place of her Mother. For that, the petitioner's Mother did forgo the lump sum payment of Rs. 10,000 paid usually to persons going on voluntary retirement, since she wanted her son to be employed in her place. The Petitioner was retained as an apprentice upto 31-5-1992, though there was a complaint initially that the Petitioner was the low performer later on, he improved and proved himself worthy. In view of the same, he was appointed as a temporary worker for the period of one year from 1-5-1992 to 30-4-1993. Clause 7 in the appointment order dated 20-5-92 for appointing the Petitioner as a temporary worker reads that 'your performance during this temporary appointment would be monitored and only if it meets the norms of production, productivity and quality, your case will be considered for a permanent post'. So, unless the performance of the Petitioner meets the norms of production, he could not be considered for the permanent post. So, it cannot be a termination clause. But suddenly, without any notice, hearing or opportunity, an order dated 24-7-1993 was served on the Petitioner relieving him from the services of the company with immediate effect. In that notice, it is stated that since the Petitioner had not achieved norms of production in terms of Clause 7 mentioned above, the orders were passed. Though the Petitioner was given temporary appointment upto 30-4-93, he was retained till 26-7-93 because his work was satisfactory. As an apprentice and then as a temporary worker, the Petitioner had put in the services of three years and he had worked for more than 240 days every year. As such, he is entitled to be made permanent. In any event, he cannot be terminated from service by invoking clause 7 in the appointment order without notice or opportunity. The action of the Management in terminating the services of the Petitioner is opposed to law, natural justice and the norms governing employer-employee relationship. Even assuming it is a retrenchment simpliciter it could not have been done without following the provisions of Section 25F of the Industrial Disputes Act and rules framed thereunder. If it is by way of penalty for bad performance as claimed by the Management, procedure and terms of opportunities, enquiry and due processes after show cause having not been followed, the termination is bad. The non-employment of the Petitioner by the Management is unjust, unlawful, inequitable and bad in law. The Petitioner is entitled to be reinstated with back wages, continuity of service. Hence, it is prayed that the Tribunal may be passed an award accordingly.

5. The averments in the Counter Statement of the II party/Management are briefly as follows :—

The II Party/Management of Dalmia Magnesite Corporation, Salem (herein after referred to as Respondent) has appointed the Petitioner as an apprentice for one year from 6-6-90. The Petitioner was provided employment on compassionate ground in the place of his Mother, who was sick and resigned. The performance of the Petitioner during apprentice was found to be unsatisfactory. So it was extended for another six months in order to provide an opportunity to the Petitioner, to improve his performance. However, the Petitioner did not improve his performance, so his apprenticeship was further extended for three months from 1-12-91 to 28-2-1992. Even after the completion of the extended period of apprenticeship, the Petitioner did not show any improvement on his performance. Again the apprenticeship period of the Petitioner was extended for further three months from 1-3-92 to 31-5-92. Then the Petitioner was provided temporary employment for the period of one year from 1-5-92 to 30-4-93. After the completion of the said period of temporary employment, it was found that the petitioner did not achieve the norms of production, productivity and quality. Under Clause 2 of the temporary appointment order dated 20-5-92 his duties and responsibilities for raising raw magnesite and chipping and dressing were prescribed. He did not satisfy the said norms. In spite of various opportunities were given to him, he did not improve. Hence, the Respondent has left with no other alternative but to relieve the Petitioner of his services and an order was passed dated 24/26-7-93 relieving the services of the Petitioner from the company. Thus the Petitioner was relieved of his services on the basis of a specific term provided in the Contract for temporary appointment. It is not in violation of any rule, but it is totally in accordance with the contract. On humanitarian grounds, the Petitioner was provided employment on compassionate ground for which the Petitioner's Mother's resignation was the cause. The Petitioner was given ample opportunity to improve his performance. He was also put on notice that he would be

considered for permanent post only when his performance meets the norms of production, productivity and quality. As could not achieve the quality expected on him by improving his performance. As the Petitioner could not improve his performance, and prove himself worth of being appointed in a permanent post, his services could not be continued. It is not a case of termination attracting Section 25F of the Industrial Disputes Act. The termination was not made by way of penalty for bad performance. The termination is not bad in law and it is only an action taken by following the procedures and due process. So, the action of the Management in terminating the Petitioner from service is just, lawful, equitable and sustainable. The Petitioner is not entitled to any relief as against the Respondent much less the relief of reinstatement with back wages etc. Hence, the claim of the Petitioner may be dismissed.

6. The point for my consideration is—

"Whether the action of the Management of M/s. Dalmia Magnesite Corporation, Salem, in terminating the services of Shri C. Parasuramy is justified? If not, to what relief the workman is entitled?"

Point :—

Though sufficient opportunity has been afforded to either parties to the dispute to put forth their respective contention they have raised in the Claim Statement as well as Counter Statement respectively, none of them appeared before this Tribunal to establish their stand. No oral or documentary evidence has been let in on either side. So, the Tribunal has left with no option, but to decide this case on merits with the available materials, the Claim Statement of the Petitioner/Workman and the Counter Statement of the Respondent/Management.

7. The appointment of the Petitioner on compassionate ground in the Respondent/Management company as pleaded by the Petitioner is admitted by the Respondent/Management. It is also the case of both the parties that an appointment order was given to the Petitioner by the Respondent/Management with some terms and conditions and one of the terms of the appointment order dated 20-05-92 is that the Petitioner can be made permanent employee of the Respondent/Management only when he is found to achieve the norms of production, productivity and quality as per the clause 2 of the temporary appointment order. From the averment of the Counter Statement it is seen that though many opportunities were afforded to the Petitioner by extending his period of apprenticeship, he had not improved his performance and shown any sign of improvement. This averment of the Respondent/Management in the Counter Statement has not been denied by the Petitioner/Workman by way of any reply or rejoinder. It is further alleged in the Counter Statement of the Respondent/Management that the Petitioner was relieved of his services on the basis of specific term provided in the contract for temporary appointment. From the material available in this case, it is seen that the Petitioner was never made a permanent employee of the Respondent company. It is not the case of the Petitioner that he was performed his duties as per the expectation of the Management and it is also not his case that he was not afforded many opportunities to improve his performance. Under such circumstances it cannot be said that the termination is opposed to law and natural justice. He has not come forward to disprove the contention of the Respondent that he did not improve his performance in order to achieve the quality expected on him. As he was not absorbed as a permanent employee of the respondent company and has been terminated from service while he was only on a temporary appointment, the provision under Section 25F of the Industrial Disputes Act cannot be attracted for the action of termination of the service taken against the 1 Party/Workman. Further, it cannot be said that it is a penalty imposed by the Respondent/Management for his bad performance. Under such circumstances, it cannot be said that the action of the management against the 1 Party/Petitioner by terminating him from service is unlawful or unjustified. So, the Petitioner cannot have any relief as prayed for against the Respondent. Thus, I answer the point accordingly.

8. In the result, an award is passed holding that the Petitioner/Workman is not entitled to any relief as prayed for against the Respondent/Management. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 7th August, 2001.)

K. KARTHIKEYAN, Presiding Officer

नई दिल्ली, 27 अगस्त, 2001

का.प्र. 2424.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नुआसाही क्रोमाइट माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-01 को प्राप्त हुआ था।

[सं. एल-29012/3/99—आई.प्र. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 27th August, 2001

S.O. 2424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar (Orissa) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the M/s. Nuasahi Chromite Mines and their workmen which was received by the Central Government on 22-8-2001.

[No. L-29012/3/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 262/2001

Dated. Bhubaneswar, the 1st August, 2001

BETWEEN

The Management of Nuasahi Chromite Mines of
M/s. IMFA Ltd., Rasulgarh, Bomikhal,
Bhubaneswar. ...1st Party- Management

AND

Their workman Shri Naryan Patra,

At. Po. Bangore, Via-Hadgarh

Keonjhar.

...2nd Party-Workman.

APPEARANCES:

Mr. M. K. Mahapatra, and
M. R. Rao—For the 1st Party-Management.

None. —For the 2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-29012/3/99/IR(M), dated 8-6-1999:—

“Whether the action of the management of Nuasahi Chromite Mines of M/s. IMFA by refusing employment to Shri Narayan Patra is legal and justified? If not, to what relief the workman is entitled?”

2. While making reference intimation was also sent to the Management and the Workman to file their respective claim statements before this Tribunal with fifteen days from the date of receipt of the reference. The reference was made on 8-6-1999. The Tribunal on receipt of the reference also issued notices to the parties. In spite of direction of the Tribunal and the Government of India (Ministry of Labour), the workman has not made his appearance before the Tribunal and he has not filed his statement of claims. Notice was duly served on him but he did not take any step to take part in the proceeding and to place his case before the Tribunal to answer the reference. Since, 1999 the reference could not be answered in absence of the workman and for not taking any step by him.

3. The above circumstances would suggest that no dispute exists between the parties and the workman has got no cause of action and that he has got no materials in support of his case.

4. Hence, no dispute award is passed and the workman is not entitled for any relief.

5. The reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 27 अगस्त, 2001

का.प्र. 2425.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एस. कुमार हैंडलिंग एजेंसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-2001 को प्राप्त हुआ था।

[सं. एल-29012/19/2001-आई.आर.(एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 27th August, 2001

S.O. 2425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar (Orissa) as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. S. Kumar Handling

Agency and their workmen which was received by the Central Government on 22-8-2001.

[No. L-29012/19/2001/IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR**

PRESENT :

Shri S. K. Dhal, OSIS, (Sr. Branch),
Presiding Officer, C.G.I.T. cum-Labour
Court.
Bhubaneswar.

Industrial Dispute Case No. 381/2001

Dated, Bhubaneswar, the 9th August 2001

BETWEEN

The Management of M/s. S. Kumar Handling Agency,
Contractor, M.M.T.C. Railway Siding,
At. Station Road, P.O. Barbil,
Dist. Keonjhar. . . 1st Party-Management.

AND

Their Workmen, represented through their
General Secretary, North Orissa Workers
Union, At Po. Barbil,
Dist. Keonjhar. . . 2nd Party-Union.

APPEARANCES:

Shri S. K. Behera . . . For the 1st Party-
Management.

Shri B. S. Pati, General Secretary,
North Orissa Workers Union. . . For the 2nd Party-
Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication vide their Order No. L-2012/19/2001/IR(M) dated 3-4-2001:—

“Whether the demand of the North Orissa Workers Union, to pay 20% bonus for the year 1998-99 to all workmen engaged by M/s. S. Kumar Handling Agency, Contractor of MMTC, At. Po : Barbil, Dist. Keonjhar who has earned more profit is justified? If yes, to what relief the workmen are entitled to?”

2. While sending the reference intimation was sent to both the parties to file their respective Claim Statements and documents before the Tribunal within fifteen days from the date of receipt of the reference. The Parties were also noticed by this Tribunal and they have made their appearance. The Union has filed the Claim Statement. When the proceeding was adjourned for filing of the Written Statement by the Management both the parties have filed a petition for

passing Award as per the terms of settlement which has been made on 1-8-2001. The contents of the petition was read over and explained to both the parties and they have admitted to be true.

3. Hence, award is passed as per the terms of settlement reached between the parties. The Memorandum of settlement would form part of the Award.

4. Reference is answered accordingly.

S. K. DHAI., Presiding Officer

FORM H

MEMORANDUM OF SETTLEMENT ARRIVED AT BETWEEN THE MANAGEMENT OF M/S. S. KUMAR HANDLING AGENCY, CONTRACTOR, M.M.T.C. RAILWAY SIDING, BARBIL AND THEIR WORKMEN REPRESENTED BY THE GENERAL SECRETARY, NORTH ORISSA WORKERS' UNION BARBIL, DIST:KEONJHAR OVER PAYMENT OF BONUS FOR THE FINANCIAL YEAR 1998-99 DATED THIS THE 1ST, AUGUST, 2001

Representating the Management
Shri S. K. Behra, Proprietor,
M/S. S. Kumar Handling Agency,
Contractor, M.M.T.C. Ltd, Barbil
Railway siding, Barbil.

Representating the Union/Workmen

1. Shri B. S. Pati, General
Secretary, North Orissa
Workers' Union, Barbil.

2. Shri K. N. Nanda, Secretary
North Orissa Workers' Union,
Barbil.

SHORT RECITAL OF THE CASE

The General Secretary, North Orissa Workers' Union raised the Industrial Dispute for the payment of Bonus 20% for the financial year 1998-99 to the wagon loaders of Barbil Railway siding.

That when no amicable settlement arrived at the Union raised the dispute before the Asst. Labour Commissioner (C) RKL for settlement over the dispute. But there also the management did not participated, hence the dispute has been referred to the Industrial Tribunal for Adjudication.

That during the pendency of the dispute for adjudication the parties had mutual discussions for amicable settlement of the dispute.

That after going through the working condition and the placement of wagons by the management of M/S. M.M.T.C. Ltd. were discussed and finally the parties agreed to resolve the dispute by signing the settlement today the 1st August, 2001 on the following terms :

TERMS OF THE SETTLEMENT

1. Both the parties agreed for payment of Bonus 12% for the financial year 1998-99 for all categories of workmen of Barbil Railway siding.

2. That the management already paid Bonus 10% for the financial year and the balance 2% shall be paid after the award is passed by the Industrial Tribunal.

3. That this settlement will be filed before the Presiding Officer Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar with prayer for passing an award on the terms of the settlement.

Both parties shall report the implementation of the settlement to the Asst. Labour Commissioner (C), Rourkela and Regional Labour Commissioner (C), Bhubaneswar after the payment of dues of the workers as per terms of the settlement.

Signature of the Management :

(Sri S. K. Behera)

Proprietor

M/s. S. Kumar Handling Agency

Witness:

(R. K. Sabu)

Address : Barbil

Witness:

Address.

Signature of the Union :

(Sri B. S. Pati)

General Secretary

North Orissa Workers' Union

K. N. NANDA, Secy.
North Orissa Workers' Union.
Witness :

Sd./- Illegible,

Sd/-

Illegible

Address : Barbil.

नई दिल्ली, 27 अगस्त, 2001

का. आ. 2426.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में एस. कुमार हैंडलिंग एजेंसी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-01 को प्राप्त हुआ था।

[सं. एल-26011/11/99-आर्.आर. (एन)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 27th August, 2001

S.O. 2426.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar (Orissa) as shown in the Annexure in the industrial dispute between the employers in relation to the M/s. Kumar Handling Agency and their workmen which was received by the Central Government on 22-8-2001.

[No. L-26011/11/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch), Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 68/2001

Dated, Bhubaneswar, the 9th August, 2001

BETWEEN

The Management of M/s. S. Kumar Handling Agency,
M.M.T.C. Railway Siding,
At Station Road, P.O. Barbil,
Dist. Keonjhar.

—1st Party-Management.

AND

Their Workmen, represented through their General Secretary,
North Orissa Workers Union,
At/P.O. Barbil, District Keonjhar.

—2nd Party-Union.

APPEARANCES :

Shri S. K. Behera—For the 1st Party-Management.

Shri B. S. Pati, General Secretary, North Orissa Workers Union—For the 2nd Party-Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication vide their Order No. L-26011/11/99/IR(M), dated 14-12-1999 :—

“Whether the demand of the North Orissa Workers Union, Barbil for payment of 20 per cent bonus for the financial year ending 1997-98 by M/s. S. Kumar Handling Agency, Contractor of MMTC, Barbil, is justified? If so, to what relief the workmen are entitled?”

2. While sending the reference intimation was sent to both the parties to file their respective Claim Statements and documents before the Tribunal within fifteen days from the date of receipt of the reference. The parties were also noticed by this Tribunal and they have made their appearance. The Union has filed the Claim Statement. When the proceeding was adjourned for filing of the Written Statement by the Management both the parties have filed a petition for passing Award as per the terms of settlement which has been made on 1-8-2001. The contents of the petition was read over and explained to both the parties and they have admitted to be true.

3. Hence, award is passed as per the terms of settlement reached between the parties. The Memorandum of settlement would form part of the Award.

4. Reference is answered accordingly.

S. K. DHAL, Presiding Officer

FORM H

MEMORANDUM OF SETTLEMENT ARRIVED AT BETWEEN THE MANAGEMENT OF M/S. S. KUMAR HANDLING AGENCY, CONTRACTOR, M.M.T.C. RAILWAY SIDING, BARBIL AND THEIR WORKMEN REPRESENTED BY THE GENERAL SECRETARY, NORTH ORISSA WORKERS' UNION BARBIL, DISTRICT KEONJHAR OVER PAYMENT OF BONUS FOR THE FINANCIAL YEAR 1997-98 DATED THIS THE 1ST AUGUST, 2001

Representating the Management :

Shri S. K. Behera, Proprietor,
M/s. S. Kumar Handling Agency,
Contractor, M.M.T.C. Ltd. Barbil,
Railway Siding, Barbil.

Representating the Union/Workmen :

1. Shri B. S. Pati, General Secretary,
North Orissa Workers' Union,
Barbil.
2. Shri K. N. Nanda,
Secretary North Orissa Workers' Union,
Barbil.

SHORT RECITAL OF THE CASE

The General Secretary, North Orissa Workers' Union raised the Industrial Dispute for the payment of Bonus @ 20 per cent for the financial year 1997-98 to the wagon loaders of Barbil Railway siding.

That when no amicable settlement arrived at the Union raised the dispute before the Asstt. Labour Commissioner (C) RKL for settlement over the dispute. But there also the management did not participated, hence the dispute has been referred to the Industrial Tribunal for Adjudication.

That during the pendency of the dispute for adjudication the parties had mutual discussions for amicable settlement of the dispute.

That after going through the working condition and the placement of wagons by the management of M/s. M.M.T.C. Ltd. were discussed and finally the parties agreed to resolve the dispute by signing the settlement today the 1st August, 2001 on the following terms :

TERMS OF THE SETTLEMENT

1. Both the parties agreed for payment of Bonus @ 12 per cent for the financial year 1997-98 for all categories of workmen of Barbil Railway siding.
2. That the management already paid Bonus @ 10 per cent for the financial year and the balance 2 per cent shall be paid after the award is passed by the Industrial Tribunal.

3. That this settlement will be filed before the presiding officer Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar with prayer for passing an award on the terms of the settlement.

Both parties shall report the implementation of the settlement to the Asst. Labour Commissioner (C), Rourkela and Regional Labour Commissioner (C), Bhubaneswar after the payment of dues of the workers as per terms of the settlement.

Signature of the management :

Sd/-

(Sri S. K. Behera)

Proprietor

M/s. S. Kumar Handling Agency.

Sd/-

Witness :

Address : D. R. Saini, Barbil.

Witness :

Address : ()

Signature of the Union :

Sd/-

(Sri G. S. Pati)

General Secretary,

North Orissa Workers' Union

Sd/-

(K. N. Nanda)

Secretary,

North Orissa Workers' Union.

Sd/-

(Jagadish Prasad)

Witness :

Address :

Barbil.

नई दिल्ली, 27 अगस्त, 2001

का.आ. 2427.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. मंगलम सीमेंट्स लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, कोटा के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-08-2001 को प्राप्त हुआ था।

[सं. एल-29012/34/94-आई.आर. (एम)]

बी. एम. डेविड, अव्वर सचिव

New Delhi, the 27th August, 2001

S.O. 2427.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kota as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mangalam Cements Ltd. and their workman, which was received by the Central Government on 27-08-01.

[No L-29012/34/94 IR (M)]

B. M. DAVID, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी— श्री महेश चन्द्र भगवती, आर.एच.जे.एस

निर्देश प्रकरण क्रमांक. औ.रा. /केन्द्रीय-14/94

दिनांक स्थापित. 7-11-94

प्रसंग: भारत सरकार, श्रम मंत्रालय के आदेश संख्या

एल. 29012/34/94-आई.आर. (विविध)

दिनांक 25-10-94

निर्देश अन्तर्गत धारा 10(1) (घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

भवानी शंकर पुत्र श्री कन्हैयालाल द्वारा मंगलम सीमेंट, कर्मचारी यूनियन, बंगाली कोलोनी, छवती, कोटा।

—प्रार्थी श्रमिक

एवं

मै. प्रबोधक, मंगलम सीमेंट लिमिटेड, मोड़क (कोटा)

—अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि:— श्री पुरुषोत्तम दाधीच
अप्रार्थी नियोजक की ओर से प्रतिनिधि:— श्री बी. के. जैन
अधिनिर्णय दिनांक 18-07-2001

: अधिनिर्णय :

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश दि. 25-10-94 के जरिए निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 की धारा 10(1) (घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :—

“क्या प्रबंधन मै. मंगलम सीमेंट लिमिटेड, मोड़क कोटा द्वारा उनके कर्मकार श्री भवानी शंकर पुत्र श्री कन्हैया लाल को सेवा से पृथक् करने की कार्यवाही उचित एवं वैध है ? यदि नहीं तो कर्मकार किस अनुपेक्ष का हकदार है और कब से ?”

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीकृत उपरान्त पक्षकारों को सूचना विधिवत रूप में जारी की गयी तदुपरान्त दोनों पक्षों की ओर से अपने-अपने अध्यावेदन प्रस्तुत किए गए।

3. आज प्रार्थी श्रमिक स्वयं भवानीशंकर मय अधिकृत प्रतिनिधि श्री पुरुषोत्तम दाधीच एवं अप्रार्थी नियोजक प्रतिनिधि श्री बी. के. जैन ने न्यायाधिकरण में उपस्थित होकर एक

संयुक्त राजीनामा प्रस्तुत कर वह निवेदन किया कि चूंकि पक्षकारों के मध्य लोक न्यायालय की भवना से प्रेरित होकर लम्बित निर्देश/विवाद के सम्बन्ध में आपसी समझौता सम्पन्न हो गया है जिसके तहत अप्रार्थी, पार्थी को सब कल 17,000/- रु. की राशि आज से एक माह की प्रारम्भिक देना करेगा तथा पार्थी इस समझौते के तहत उक्त राशि के पूरा होने से अपने भविष्य में सेवा में पुनर्प्रवेश होने के अधिकार को छोड़ता है, अतः समझौते के आधार पर प्रकरण का अन्तिम रूप से निस्तारण कर दिया जावे।

पक्षकारों को प्रस्तुतशुदा राजीनामे/समझौते की दिव्य-वस्तु को पक्षकार सुनाया गया जो उन्होंने सुन, समझ सही होना स्वीकार किया। चूंकि लोक न्यायालय की भवना से प्रेरित होकर पक्षकारों के मध्य उक्त प्रकार का समझौता सम्पन्न हो गया है और अब समझौते उपरान्त किसी प्रकार का कोई विवाद शेष नहीं रहा है तथा दोनों पक्ष इस प्रस्तुतशुदा समझौते में सम्मूढ रहेंगे। अतः प्रस्तुतशुदा समझौते के आधार पर लम्बित निर्देश/विवाद को अन्तिम रूप में इसी प्रकार अधिर्निर्णय किया जाता है।

अधिनियम आज दिनांक 18-07-2001 को खूबे न्यायाधिकरण में सुनाया गया जिन न्यायात्मक सन्तुष्टि सत्कार को प्रकाशनार्थ भिजवाया जावे।

नरेश चन्द्र भादवी, न्यायाधीश

नई दिल्ली, 27 अगस्त, 2001

का.आ. 2428—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार में, जेम कार्पोरेशन ऑफ ओरिसा लि. के प्रबंधन के संबंध निर्योजका और उनके वर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पालट को प्रकाशित करती है, जो केन्द्रीय सरकार का 22-08-2001 को प्राप्त हुआ था।

[म एल-29012/72/96—आईआर (एम)]

वी एम डेविड, अवर सचिव

New Delhi, the 27th August, 2001

S.O. 2428.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Gem Corpn of Orissa Ltd. and their workman, which was received by the Central Government on 22-08-2001.

[No. L-29012/72/96-IR (M)]

B. M DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer,
C.G.I.T.-cum-Labour Court,
Bhubaneswar

Tr. INDUSTRIAL DISPUTE CASE NO. 116/2001
Dated, Bhubaneswar, the 8th August, 2001

Between :

The Management of
M/s. Gem Corporation of Orissa Limited,
Regd. Office D-20, B.J.B. Nagar,
Bhubaneswar. 1st Party Management

(And)

Their Workman Shri Jogi Nayak,
At. Bhapur, P.O. Badaseripur,
Via. Banpur, Distt. Khurda. 2nd Party Workman
Appearances :

None For the 1st Party
Management.

None For the 2nd Party
Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication vide their Order No. L-29012/72/96-IR (Misc.), dated 27-1-1997

“Whether the action of the management of the Gem Corporation of Orissa Ltd. in terminating the services of Shri Jogi Nayak even after completion of more than 3 years continuous service is legal and justified? If not, to what relief the workman is entitled to?”

2. While making reference intimation was also sent to the Management and the Workman to file their respective claim statements before this Tribunal within fifteen days from the date of receipt of the reference. The reference was made on 27-1-1997. The Tribunal on receipt of the reference also issued notices to the parties. In spite of direction of the Tribunal and the Government of India (Ministry of Labour), the workman has not made his appearance before the Tribunal and he has not filed his statement of claims. He also did not take any step to take part in the proceeding and to place his case before the Tribunal to answer the reference. Since,

1977, the reference could not be answered in absence of the workman and for not taking any step by him.

3. The above circumstances would suggest that no dispute exists between the parties and the workman has got no cause of action and that he has got no materials in support of his case.

4. Hence, no dispute award is passed and the workman is not entitled for any relief.

5. The reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 27 अगस्त, 2001

का.आ. 2429.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 22-08-2001 को प्राप्त हुआ था।

[स. एल-31011/4/2000-आई आर (एम)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 27th August, 2001

S.O. 2429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai as shown in the Annexure in the Industrial dispute between the employers in relation to the Mumbai Port Trust and their workman which was received by the Central Government on the 22-08-2001.

[No. L-31011/4/2000-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Present :

S. N. Saundankar,
Incharge Presiding Officer

REFERENCE NO. CGIT - 1/45 of 2000.

Employers in relation to the Management of
Mumbai Port Trust
The Chairman,
Mumbai-400 038.

AND

Their Workmen,
Mumbai Port Trust Dock and Genl. Employees
Union,
The Secretary,
Kamgar Sadan,
Mazagon,
Mumbai 400 010.

Appearances :

For the Employer : Mr. Phadnis,
Representative.

For the Workmen : No Appearance.

Mumbai, dated 7th August, 2001

AWARD

The Government of India, Ministry of Labour by its Order No. L-31011/4/2000/IR (M). dated 29-8-2000, have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it, by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 :

“Whether the action of the management of Mumbai Port Trust by terminating the services of 8 nurses viz. 1. Neha Talegaonkar, 2. Sunita Mohite, 3. Reshma Baraskar, 4. Bharati Barkar, 5. Amita Sarang, 6. Minakshi Rane, 7. Ujwala Kadam, 8. Neelima Ghag, is justified and proper? If not, then what relief the workman is entitled to?”

2. On receipt of reference notice (Exhibit 2) was sent to both the parties i.e. the Union and the management and that union was served with notice vide acknowledgment (Exhibit 3). However, none appeared on behalf of union nor filed Statement of Claim though sufficient time given. Consequently again notice (Exhibit 4) was issued to both the parties returnable on 2nd July, 2001 and the same were received by the management vide (Exhibit 5) and union vide (Exhibit 6). In response to that, on behalf of the management Mr. Phadnis holding for Advocate Mr. Umash Nambur filed Vakalatnama. However, none appeared on behalf of the union. Record shows that the matter was kept on 31-7-2001 and thereafter today. However, union did not appear nor filed Statement of Claim which indicates that the union is not interested in prosecuting the reference. Therefore the following order is passed :

ORDER

Reference stands disposed of for non-prosecution.

S. N. SAUNDANKAR Incharge Presiding Officer

नई दिल्ली, 27 अगस्त, 2001

का.आ. 2430.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के

पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-08-01 को प्राप्त हुआ था।

[सं. एन-44012/6/94-आई आर (एम)]
बी.एम. डेविड, अवर सचिव

New Delhi, the 27th August, 2001

S.O. 2430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tuticorin Port Trust and their workman, which was received by the Central Government on 22-08-01.

[No. L-44012/6/94-IR (M)]
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 7th August, 2001

Present : K. Karthikeyan,
Presiding Officer

INDUSTRIAL DISPUTE NO. 388/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 24/95)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between Sri M. Natesan, Workman and the Management of Tuticorin Port Trust, Tuticorin.

BETWEEN

The General Secretary,
Port Workers Union,
Tuticorin. I Party/Claimant

AND

The Chairman,
Tuticorin Port Trust,
Tuticorin. II Party/Management.

Appearance :

For the claimant M/s. P. K. Rajagopal &
K. Santhakumari,
Advocates.

For the Management Sri M. Sriram &
V. C. Balaji, Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-sec. (1) and sub-sec. 2(A) of Sec. 10 of Industrial Disputes

Act, 1947 (Act 14 of 1947), have referred concerned Industrial Dispute for adjudication vide Order No. L-44012/6/94-IR (Misc.) dated 9th June, 1995.

This reference was first made to the Tamil Nadu State Industrial Tribunal where it was taken on file as I.D. No. 24/95. When it was pending there for adjudication, as per the orders of the Central Govt. this case has been transferred to the file of this Tribunal. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 388/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 20-2-2001 with their respective parties. On receipt of notice from this Tribunal, the counsel on record on either side were present alongwith their respective parties and prosecuted this case further.

When the matter came up before me for final hearing on 09-07-2001, upon perusing the Claim Statement, Counter Statement, other material papers on record, upon perusing the documentary evidence let in on the side of the II Party/Management and upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :

"Whether the action of the Management of Tuticorin Port Trust in denying promotion to Sri M. Natesan as Operator Grade I is justified - If not to what relief he is entitled ?"

2. The averments in the Claim Statement are briefly as follows:—

The General Secretary, Port Workers Union representing the case of the workman Sri M. Natesan has filed the Claim Statement as I Party/Claimant (hereinafter referred to as Petitioner). The concerned workman (hereinafter referred to as workman) has joined the II Party/Management/Tuticorin Port Trust (hereinafter referred to as Respondent) on 1-4-1964. He worked as a mazdoor and worked in the fields and job of electrical and cleaner upto 1967. Subsequently, he was promoted as cleaner and worked in TATA of P & H Cranes and other heavy machineries upto 30-9-69. Thereafter he was promoted as Crane Operator Grade II from 1-10-69. He was working under the same post till 1995 at the time of the reference of the present industrial dispute has been made. As a result of wage negotiation settlement, he was given selection grade post of

Senior Operator Grade-II w.e.f. 7-5-1991. The said post is a feeder category to the post of operator (Grade-I) which again is a feeder post regarding promotional post of Operator (Special Grade). The qualification prescribed for the post of Operator (Grade-II) in respect of promotion is five years experience in the profession of operation and maintenance of earth moving machineries and a pass in the trade test conducted by the Port. Possession of heavy vehicle driving licence is essential for the promotion. Even though the promotees did not possess heavy vehicle driving licence the respondent promoted them deliberately not selecting the concerned workman. Whenever the workman appeared for trade test held for the sake of giving promotions, the Respondent/Management want only failed him, thus victimizing him from giving promotion. The concerned workman is entrusted with the work duties and responsibilities attached to the post of Operator Grade-I and Operator Special Grade without heavy vehicle driving licence but he was denied promotion to those higher posts on the ground that he is not having heavy vehicle driving licence. The denial of promotion by the Respondent is arbitrary, illegal and is in violation of statutory regulations, unreasonable and bad in law. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award directing the Respondent/Management to give promotion to Sri M. Natesan as Operator Grade-I.

3. The averments in the Counter Statement filed by the Respondent are briefly as follows:

Now the workman is working as Senior Operator which is purely a personal post to him w.e.f. 7-5-1991. Only those employees who have the requisite qualifications prescribed in the approved Recruitment Rules alone had been considered for promotion. The claim of the Union that the workman Sri M. Natesan is more qualified than his juniors is not correct. As per the entry available in the office accounts Sri M. Natesan does not have educational qualifications/technical qualifications. The Tuticorin Port Trust which was a minor port was under construction from the year 1963 to 1974 and was under the control of the Chief Engineer and Administrator appointed by the Central Govt. as the Port was functioning as a subordinate office of the Union Ministry of Shipping & Transport. During the year 1974 the Tuticorin Harbour Project was declared as a Major Port and the Tuticorin Harbour Project (work charge established) Recruitment Rules, 1974 was made for regulating the method of recruitment for the post under the work charge establishment. The Major Port Trust Board was constituted by the Tuticorin Port on 1-4-1979 and the Tuticorin Port Employees (Recruitment, Seniority and Promotion) Regulations, 1979 was made. Serial numbers 82, 83 and 84 of the schedule to the Regulations, 1979 dealt with

the Recruitment Rules to the post of Operator Special Grade, Operator Grade-I, Operator Grade-II respectively. As per the 1974 Recruitment Rules, the post of Operator Grade-II has to be filled by promotion. Promotion by selection on marks in the cadre of skilled mazdoor, mazdoor artisans etc. should pass the test prescribed and conducted by the department. The Recruitment Rules did not specify the possession of heavy vehicle driving licence till 1974. The trade test was conducted on 21-4-1975, the concerned workman did not attend the trade test and absented himself. During 1977 the rules were amended by which heavy vehicle driving licence was declared to be essential. On 7-11-1977 again the trade test was conducted and for the said test also the concerned workman did not attend and therefore, his case was not considered for promotion. Based on the report of the Trade Test Committee and the recommendation of Departmental Promotion Committee those employees who were in possession of heavy vehicle driving licence alone have been promoted to the cadre of Operator Grade-I. Since the concerned workman Sri M. Natesan did not possess the heavy vehicle driving licence, which is an essential qualification for the post of crane operator Grade-I, though he passed the trade test he has not been considered for promotion. Possession of heavy vehicle driving licence is mandatory under Motor Vehicles Act to move the mobile cranes fitted with pneumatic wheels in highways. Hence, the Respondent was constrained to insist upon the possession of heavy vehicle driving licence, which is clearly stipulated in the Regulations, 1979. Hence, the prayer of the Petitioner Union for the promotion of the concerned workman to Operator Grade-I has to be dismissed.

4. When the matter was pending before the Tamil Nadu State Industrial Tribunal and was taken up for enquiry on 6-7-2000 by consent of the counsel on either side, the xerox copies of the documents filed on the side of the Respondent/Management were marked as Ex.M1 to M11 and it was adjourned subsequently to various hearings for arguments by the request of the counsel on either side, till the case has been transferred to the file of this Tribunal, as per the orders of the Central Govt. When the matter was taken up here for final hearing on 9-7-2001, the counsel on either side have advanced their respective arguments.

5. The point for my consideration is—

“Whether the claim of the Petitioner Union seeking promotion for Sri M. Natesan as Operator Grade-I in Tuticorin Port under the Management of Respondent is correct? If not, to what relief the concerned workman is entitled?”

Point:

It is admitted that the concerned workman Sri M. Natesan joined the Respondent Port on 1-4-1964 as a lascar. He was re-appointed as mazdoor w.e.f. 1-10-1964 and redesignated as Crane Operator Grade II from 1-10-1969. It is the contention of the Petitioner Union that even though the concerned workman Sri Natesan is working as a Senior Operator w.e.f. 7-5-1991, his juniors have been promoted as Operator Grade I and it amounts to discrimination. It is also admitted that Operator Grade-II is a feeder category to the post of Operator Grade-I, which again a feeder post regarding the promotion post of Operator Special Grade. It is admitted after the formation of Tuticorin Port Trust on 1-4-79 the Tuticorin Port Employees (Recruitment, Seniority & Promotion) Regulations, 1979 was framed and notified in the Gazette. Ex.M1 is a type set of copy of the approved Recruitment Rules of the post of Operator Grade-I. In Ex.M1 column II, it is stated that Operator Grade-II with five years experience in Port after appointment thereto on a regular basis with a pass in the test prescribed and conducted by the department has been mentioned as requisite for promotion. Ex.M2 is the xerox copy of the seniority list of Operator Grade-II in Tuticorin Port Trust as on 1-8-1991. In this document, in the column for educational qualification of the concerned workman Sri M. Natesan, nothing has been stated and he was shown to being the substantive post of Operator Grade-II and was working as Senior Operator Grade-II w.e.f. 3-5-1991. Except a few people, all other people who are juniors to him in the seniority list have shown to have possessed heavy vehicle driving licence. These entries have not been disputed by the concerned workman or the Petitioner Union. Ex.M3 is the typed copy of Notification dated 12-7-1974 for the Tuticorin Harbour Project (Work charge establishment) Recruitment Rules, 1974. In that it is shown that the post of Crane Operator Grade-I as a Selection Post. From that it is seen that the promotion to the post by selection on merit from the cadre of Crane Operator Grade-II with a pass in the test prescribed and conducted by the department. This is not disputed by the Petitioner Union as well as the concerned workman. Ex.M4 is the xerox copy of the report dated 21-4-1975 about the trade test conducted for the post of Crane Operator Special Grade and Crane Operator Grade-I. It is shown in that record that the concerned workman Mr. Natesan one of the ten absentees for the trade test for the Crane Operator I Grade conducted in the month of March, 1975. Ex.M5 is a xerox copy of the Gazette Notification for the rules at Tuticorin Port Recruitment Rules, 1977. Ex.M6 is the copy of the Minutes of Promotion Committee Meeting for filling up the post of Operator Grade-I held on 7-11-1977. Ex.M7

is the xerox copy of the Minutes of the Promotion Committee Meeting for filling up the post of Operator Grade-I held on 13-8-1993. Ex. M8 is the xerox copy of the Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979. Regulation No. 36. Ex.M9 is the xerox copy of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979, Regulation No. 31. Under this Regulation No. 31, relaxation of qualification in certain cases of promotion has been mentioned. It is stated therein that when a post is filled by promotion the Departmental Promotion Committee, may subject to the approval of Chairman, relax the academic qualification, if the candidate is to be promoted, is otherwise suitable and qualified by reasons of adequate experience. Ex. M10 is the type set copy of the order for improvement in promotional opportunities dated 15-4-1991. Ex. M11 is the typed copy of the promotion order dated 3-5-91, wherein it is stated that the concerned workman Sri M. Natesan along with four others have been promoted from the grade of Operator Grade-II to Senior Operator Grade-II in a higher scale of pay. All these documents have not been disputed by the Petitioner Union as well as the concerned workman. The concerned workman Sri Natesan has not attended the trade test conducted on 21-4-1974 and 7-11-1977, i. not disputed. From the documents filed on the side of the Management, it is seen that one of the requisite qualifications for promotion to Operator Grade-I is the pass in the trade test conducted by the department. From the available materials, it is seen that during 1993 when the action was taken up for filling up five vacant posts, 12 employees, including the workman Mr. Natesan, Operator Grade-II were called for Trade Test and based upon the report of the Trade Test Committee and the recommendations of the Departmental Promotion Committee, the employees, who were in possession of heavy vehicle driving licence have been promoted to the cadre of Operator Grade-I. It is not disputed that the concerned workman Mr. Natesan did not possess the heavy vehicle driving licence which is an essential qualification for the post of Crane Operator Grade-I. For his non-possession of heavy vehicle driving licence, he has not been considered for promotion. As per Regulation 36, mentioned in Ex. M8 with regard to interpretation, when a doubt arises as to the interpretation of any of these regulations, the matter has to be referred to the Chairman, who shall decide the same. So, the Chairman, Tuticorin Port Trust alone can decide as to the interpretation of any of the regulations including the prescribed qualifications of feeder post to

the promotion post. The concerned workman does not have a heavy vehicle driving licence which is a requisite qualification for considering him for promotion to the Crane Operator Grade I. It is not the case of the concerned workman of the Petitioner Union that the juniors to the concerned workman who do not possess the heavy vehicle driving licence have been given promotion from Operator Grade-II to Crane Operator Grade I. The contention of the Petitioner Union that there is no impediment for the Respondent/Management for promoting the concerned workman, since he has passed the trade test in the year 1939 itself is incorrect, because, admittedly the concerned workman does not possess heavy vehicle driving licence. It is the contention of the Petitioner Union that "the concerned workman has been quietly allowed to continue as Operator Grade II for all these years, inspite of the fact that he does not possess the heavy vehicle driving licence, which necessarily implies that the said condition has been relaxed in the case of Mr. M. Natesan. So, what is essential for one post having been relaxed, it cannot be insisted upon for the next higher post requiring the same standards, qualification and nature of duties. Hence, the Port Trust cannot insist upon the possession of heavy vehicle driving licence in respect of such promotion." From the materials available in this case, it is seen that this contention of the Petitioner Union cannot be accepted as correct and tenable because as per Regulation, 36 an interpretation to any doubt can be given only by Chairman, Port Trust and as per Regulation 31 any relaxation to the prescribed qualification can be done only by the Chairman, Port Trust. Here in this case, no such relaxation has been given by the Chairman, Port Trust, the Respondent herein, because he has to consider the report of the Trade Test Committee and the recommendations of the Departmental Promotion Committee. Further he has to decide as per the stipulated Regulations of 1979. It is also seen from the evidence in this case that the concerned workman Natesan was promoted to Operator Grade II in the year 1969, when the rules does not prescribed the possession of heavy vehicle driving licence. So based on the performance of the workman during the trade test, he was given promotion. It is not disputed that subsequently, in 1977 and 1979 the Recruitment Rules were amended and as per the amendment possession of heavy vehicle driving licence was essential for promotion from Operator Grade II to Operator grade I. From Ex. M 2, it is seen that the persons promoted were all having educational qualifications as well as heavy vehicle driving licence. This shows that no discriminative action

has been taken against the concerned workman, while giving promotion to others. It is seen from Ex. M-11, the copy of promotion order dated 3-5-91 that the concerned workman Sri Natesan was given personal promotion on the basis of his 15 years and more of service in the scale as a one time measure. The same cannot be taken advantage by the concerned workman for claiming promotion to the next higher post of Crane Operator Grade I. So from all these things, it is seen that the claim of the Petitioner Union on behalf of the concerned workman is not sustainable. Thus, the point is answered accordingly.

6. In the result, an award is passed holding that the action of the management, Tuticorin Port Trust in denying promotion to Sri M. Natesan as Operator Grade I is justified. Hence, the concerned workman is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 7th August, 2001).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined

On either side : None

DOCUMENTS MARKED

For I Party/Claimant : Nil

For the II Party/Management :

Ex. No.	Date	Description
M1	Nil	Xerox copy of approved recruitment rules for the post of Operator Grade I
M2	Nil	Xerox copy of the draft seniority list of Operator Grade I in Tuticorin Port Trust as on 1-8-91.
M3	12-07-74	Xerox copy of Notification for recruitment rules for the post of Operator Grade I.
M4	21-04-75	Xerox copy of Trade Test report conducted on 28-3-75.
M5	21-02-78	Xerox copy of the Notification regarding Transfer of personnel from W.C.E. RR 1997.
M6	7-11-77	Xerox copy of the Minutes of the DPC for filling up the post of Operator Grade I

M7	13-08-93	Xerox copy of the Minutes of the DPC for filling up the post of Operator Grade I.
M8	Nil	Xerox copy of Tuticorin Port Trust C.R.S. and P Regulation, 1979 for copy of Regulation 36.
M9	Nil	Xerox copy of Tuticorin Port Trust C.R.S. and P Regulation, 1979 for copy of Regulation 31.
M10	15-04-91	Xerox copy of order regarding improvement in promotional opportunities to Class IV posts.
M11	03-05-91	Xerox copy of promotion order to Operator Grade II in Tuticorin Port Trust.

नई दिल्ली, 14 अगस्त, 2001

का.आ. 2431.—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार इसमें संतुष्ट हो जाने पर कि ऐसा किया जाना जरूरी है, भारत में इस सुविधा को भारत में प्राधिकृत व्यक्ति से पहले ही प्राप्त कर चके भारतीय नागरिक की उत्प्रवास जांच अपेक्षा अवधि का निर्णय लेने तथा उसके निर्वहन करने के लिए उत्प्रवास मरक्षी के रूप में कार्य निष्पादन करने हेतु विदेश स्थित भारतीय दूतावासों/उच्चायोगों/वाणिज्य दूतावासों में तैनात प्रथम सचिव तथा उनसे ऊपर के अधिकारियों को एतद्वारा उत्प्रवास अधिनियम, 1983 के प्रयोजनार्थ प्राधिकृत करती है।

[सं. जेड-11025/16/2001-इमीग्रेशन]
जे.पी. पति, संयुक्त सचिव तथा उत्प्रवास महासंरक्षी

New Delhi, the 14th August, 2001

S.O. 2431.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government after satisfying that it is necessary so to do, hereby authorises the officers of the level of First Secretary and above posted in Indian Embassies/High Commissions/Consulates abroad to perform the functions of the Protector of Emigrants to decide and extend the suspension of emigration check requirement period of an Indian citizen already granted such facility by the authorised person in India, for the purpose of the Emigration Act, 1983.

[No. Z-11025/16/2001-Emig.]
J. P. PATI, Jt. Secy. & Protector General of Emigrants

नई दिल्ली, 5 सितम्बर, 2001

का.आ. 2432.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अन्वय में एतद्वारा श्रम मंत्रालय के अधीन कर्मचारी राज्य बीमा निगम के कर्मचारी राज्य बीमा अस्पताल, नोएडा को अधिसूचित करती है।

[फाइल संख्या ई-11011/1/93-रा.भा.नी (भाग)]
के.के. मारवाह, उप सचिव

New Delhi, the 5th September, 2001

S. O. 2432.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rule, 1976, the Central Government hereby notifies Employee's State Insurance Hospital, Noida under Employee's State Insurance Corporation working under the Ministry of Labour.

[File No. E-11011/1/93-RBN (Pt.)]
K. K. MARWAH, Dy. Secy.